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PREFACE

Review of the main areas of activity

In 2015, the implementation of the European regulatory architecture took great strides forward in the activities regulated by the CSSF.

The first pillar of the Banking Union has become a reality and 2015 was the first entire financial year during which euro-area significant banks have been directly supervised by the European Central Bank via joint supervisory teams to which the CSSF agents have actively contributed. In Luxembourg, 59 banks representing 73.6% of the total assets of the banks established in the Grand Duchy were involved. Less significant banks continue to be supervised by the CSSF directly.

Directive 2013/36/EU (CRD IV) was transposed into Luxembourg law in 2015. This directive covers some areas regarding capital adequacy, thereby supplementing the CRR which entered into force in 2014 and which included a new definition of own funds, as well as regarding liquidity and leverage ratios. CRD IV includes new elements such as strengthened governance, provisions regarding sanctions and provisions regarding capital buffers. Banks have now more and higher quality capital. In Luxembourg, the average CET 1 ratio of banks was 19.9% at the end of 2015.

On 1 January 2016, the Single Resolution Mechanism became fully operational. This mechanism implements the directive on the recovery and resolution of credit institutions in the euro area. Provisions regarding the cooperation between the Single Resolution Board and the national resolution authorities in bank resolution planning are applicable since 1 January 2015.

In 2015, the CSSF laid the groundwork for the implementation of new European standards on deposit guarantees that were transposed into Luxembourg law by the law of 18 December 2015.

Since 2015, Luxembourg banks have been participating in the automatic exchange of financial account information in tax matters, both at EU and OECD level, by adopting the Common Reporting Standards. The CSSF welcomes this clear positioning of Luxembourg on transparency.

The results achieved in the banking field were, on the whole, satisfactory given the challenging environment of low or even negative interest rates. The number of banks and the balance sheet total remained stable whereas the net results declined by 6%, in particular, due to low interest-rate margins and also to an increased regulatory cost and the doubling of provisions compared to 2014.

The investment fund industry continued to broaden the range of products offered, in particular, in the sphere of alternative investments. This is also reflected by the growing number of investment fund managers that requested authorisation as alternative investment fund managers (AIFMs).

In 2015, the CSSF continued to focus on good governance within investment fund managers (IFMs). Indeed, as IFMs have been confronted with an increasingly complex legislation and, at the same time, affected by regulations from other business sectors, they must have adequate human and technical resources to meet their responsibility and ensure investor protection.

Due to the increasing number of IFMs, the CSSF has significantly augmented its staff in charge of the supervision of IFMs. A department dedicated to on-site inspections of IFMs was created within the UCI departments.

The law of 10 May 2016 transposed the UCITS V Directive reforming the depositary regime, introducing remuneration rules and harmonising administrative sanctions at EU level.

As regards financial markets, the number of base prospectuses approved in 2015 (business area specific to Luxembourg as regards prospectuses) remained stable. Still with regard to prospectuses, 2016 started with, on the one hand, the practical implementation of the Omnibus II Directive that requires more reporting to the European Securities and Markets Authority (ESMA) and, on the other hand, the beginning of negotiations on the new draft European regulation on prospectuses. This draft regulation provides for growing harmonisation of the approval procedures, including even the internal working procedures of national authorities. With regard to ongoing supervision of issuers, Directive 2013/50/EU amending the Transparency Directive, was transposed in 2016 at the same time as the UCITS V Directive. The main amendments relate to (1) the rules to determine the home Member State that will allow reaching by 2016 full European coverage as regards the supervision of issuers, through enhanced cooperation between European competent authorities, (2) the notifications of major holdings, and (3) the regime of administrative sanctions that follow the general regulatory trend of increased market transparency.

A significant reform of the market abuse regulations will be introduced in 2016 with the entry into force of the new European regulations in this respect requiring an extension to all organised trading systems. Yet, Luxembourg already partially anticipated this extension by covering MTFs in addition to regulated markets as of 2006. However, the new regulation goes not only beyond this current system extension, but also includes more instruments, such as emission allowances and behaviours like those in relation to benchmarks or commodity spot markets. Special attention should be paid to the notification obligations either through whistleblowing procedures or following more demanding internal control procedures from market participants in the broad sense. In line with the trend identified in the other areas of the financial markets, regulations impose an increasingly high level of European harmonisation and require special attention to be given to the sanctions regime.

FinTech

Luxembourg intends to position itself as a major player in technological innovation in the financial area. With respect to regulations, the CSSF follows this evolution in two ways: the reception of new FinTech players which carry out a regulated activity, and the use of new technologies by supervised entities.

Since 2015, the CSSF has received and dealt with a great number of requests made by companies wondering whether or not their business is subject to the existing regulations, in particular, in relation to payment institutions, electronic money institutions and support PFS. Following the reception, for some years, of payment institutions which can be referred to as “FinTech”, exchange and transfer platforms for Bitcoins have recently been established in Luxembourg and major RegTech players, which are using new technologies in regulations and financial reporting, also showed particular interest in establishing themselves in Luxembourg.

The CSSF also follows these new technologies in so far as their use changes the operational model of supervised entities. All the activities supervised by the CSSF are concerned, in a very wide range of fields such as identification of customers through video chat, use of private or public clouds for front or back applications, or various uses of the blockchain technology. In particular, traditional outsourcing rules will be adapted in view of this evolution in order to allow supervised entities to use new technologies, while ensuring that data security remains guaranteed, that the risk of fraud is reduced and that the CSSF is able to monitor the infrastructure used appropriately. It is also important to ensure that new technologies are not used for the purpose of money laundering or terrorist financing.

The CSSF

In 2015, the CSSF continued to increase its staff in order to be able to fulfil its various tasks, both at national and international level, in particular, in its capacity as national competent authority within the Single Supervisory Mechanism (first pillar of the Banking Union). Consequently, the CSSF recruited 83 new agents and inaugurated its new headquarters, a modern and functional building, in December 2015. The recruitment of experienced specialists and trainee agents will continue in 2016 and 2017, along with the implementation of the European and international post-financial 2007-2008 crisis regulatory framework. The CSSF will carry out more on-site inspections and will continue its thematic reviews, in particular, as regards credit risk, capital adequacy, liquidity, governance and risk management. At the same time, the CSSF will remain vigilant about the proper enforcement of know-your-customer rules and transaction monitoring rules, in a context where banks are oriented to more international and wealthier customers, sometimes in distant markets with which they are less familiar.

Along with the Government, the Banque centrale du Luxembourg and the Commissariat aux Assurances, the CSSF is member of the Systemic Risk Board created in 2015. The latter’s mission is to coordinate the implementation of the macroprudential policy whose ultimate objective is to contribute to safeguarding the stability of the Luxembourg financial system.

Regulation complexity continues to represent a challenge not only for supervised entities in terms of regulatory cost but also for the CSSF, which must train its agents, recruit new specialists and cooperate with European and international institutions, on an ongoing basis. In this respect, the CSSF agents did remarkable work throughout 2015.

Mrs Andrée Billon and Mr Jean Guill retired at the beginning of the year 2016 after careers devoted to serving the State and the financial centre. They have left their mark on the CSSF and the financial centre. The Executive Board of the CSSF was partially renewed at the beginning of 2016 and will be strengthened by the arrival of a new director on 1 September 2016.

Claude MARX
Director General

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SUMMARY

The 2015 trends for the different financial centre segments may be summarised as follows.

International aspects of supervision

Following the achievement of the first pillar of the Banking Union in 2014, namely the setting-up of the Single Supervisory Mechanism (SSM), the integration of the euro-area banking systems continued in 2015 with the preparation of the entry into force of the second pillar of the Banking Union, i.e. the Single Resolution Mechanism (SRM).

2015 was the SSM's first year of operation and the CSSF's organisational structure has proven to be well-adapted to exercise its missions as an SSM member. Besides participating in the prudential supervision of the Luxembourg significant banks and in the Joint Supervisory Teams, the CSSF contributed to the work of the various consultative bodies and support functions of the ECB. In particular, the CSSF participated in the decision-making process of the SSM within the Supervisory Board.

The CSSF is also actively involved in the indirect supervision of less significant banks exercised by the ECB whose primary objective is the day-to-day cooperation between the ECB and the national competent authorities and in initiatives focussed on the development of joint supervisory standards and methodologies.

The work of the European Supervisory Authorities EBA, ESMA and EIOPA with the aim of harmonising regulations and developing regulatory and implementing technical standards continued in 2015.

143 credit institutions

Balance sheet total: EUR 743.19 billion

Net profit: EUR 3,987 million

The number of banks decreased by one entity to 143 as at 31 December 2015. Four banks started their activities whereas five banks ceased their activities during the year.

The aggregate balance sheet total amounted to EUR 743.19 billion at the end of 2015, representing a 0.8% growth compared to 2014. Following the business decrease in 2013 (-2.9%), in 2012 (-7.3%) and in 2010 (-3.8%), the banking sector's activity increased slightly, as measured by the balance sheet total. This growth is shared by 63% of the banks of the financial centre.

Net profit of the Luxembourg banking sector reached EUR 3,987 million as at 31 December 2015 (-6.3% compared to 2014). This evolution is mainly due to three combined effects: a rise of the banking income as a result of a general increase of all its components, a significant growth of the general administrative expenses and a doubling of provisions year-on-year.

309 PFS (107 investment firms, 124 specialised PFS, 78 support PFS)

Balance sheet total: Investment firms: EUR 6.00 billion; specialised PFS: EUR 7.34 billion; support PFS: EUR 1.1 billion

Net profit: Investment firms: EUR 253.3 million; specialised PFS: EUR 194.1 million; support PFS: EUR 68.1 million

Following a turbulent year 2014 in terms of authorisations and status withdrawals, the PFS sector gained some stability in 2015. With 13 entities authorised in the course of the year, as against 19 status withdrawals, the number of PFS of all categories decreased nevertheless by six entities. The net development in number thus turned negative for investment firms (-4 entities) and support PFS (-3 entities) whereas the number of specialised PFS increased by one entity.

The aggregate balance sheet total of investment firms soared to reach EUR 6.00 billion (+64.5%) as at 31 December 2015, which is mainly due to one financial player authorised in 2015 with a very high balance sheet total. The drop in the aggregate balance sheet total of specialised PFS which amounted to EUR 7.34 billion at the end of 2015, i.e. -31.9% as compared to 2014, is due to one large entity being taken over during the year within the context of a cross-border merger. The aggregate balance sheet total of support PFS increased by 5.1% to EUR 1.1 billion as at 31 December 2015.

The net profit of investment firms rose significantly (+73.0%). This is attributable, in particular, to the significant profit of one financial player. However, it should be borne in mind that nearly one third of investment firms recorded a negative result in 2015. The aggregate net result of specialised PFS registered a considerable decrease of 44.1%, which is mainly attributable to two significant entities. Excluding these entities, the aggregate net results of the other specialised PFS showed an upward trend. For support PFS, the net profit increased by 13.7% and amounted to EUR 68.1 million at the end of 2015.

10 payment institutions

5 electronic money institutions

The number of payment institutions (+1 entity) and electronic money institutions (-1 entity) did not change much in an emerging market which seeks its cruising speed. The CSSF noticed a certain interest from several players to establish themselves in Luxembourg to benefit from this market opportunity.

4,160 UCIs[1]

14,496 fund units

Total net assets: EUR 3,543.6 billion

414 authorised investment fund managers

619 registered investment fund managers

In 2015, the UCI sector registered a 13.3% growth in net assets under management, originating for 72.4% from net subscriptions and for 27.6% from the positive performance of financial markets.

However, the number of UCIs fell by 0.8% (i.e. -33 entities) mainly because of a trend towards concentration in this area. Making up 45.5%, UCITS remain the majority in terms of numbers, closely followed by SIFs with 38.5%. In terms of assets under management, UCITS still predominate with 83.2% of total net assets of UCIs, against 11.0% for SIFs. When taking into account umbrella funds, a total of 14,496 fund units were active on 31 December 2015, which represents a new record.

The number of authorised investment fund managers increased by 9.2% as compared to the preceding year and the number of registered investment fund managers rose by 4.4%.

32 authorised securitisation undertakings

Taking into consideration two authorisations and two withdrawals, the number of authorised securitisation undertakings remained stable in 2015. The balance sheet total of authorised securitisation undertakings increased by EUR 6.5 billion and amounted to EUR 30.3 billion at the end of the year.

14 pension funds

The number of authorised pension funds dropped by one entity in 2015. As at 31 December 2015, gross assets of pension funds reached EUR 1,440 million, which represents a 4.0% rise compared to the end of 2014. However, the number of pension fund members decreased to 15,448 members as at 31 December 2015 (-4.4% as compared to 2014). This fall is mainly owed to the transfer of one pension fund to an insurance product outside the supervisory scope of the CSSF.

[1] The term UCIs refers to UCITS and UCIs of Part II of the law of 17 December 2010 as well as to SIFs subject to the law of 13 February 2007 and to SICARs subject to the law of 15 June 2004.

Total employment in supervised entities: 44,993 people

(of which banks: 25,942 people, investment firms: 2,278 people, specialised PFS: 3,787 people, support PFS: 9,218 people, management companies: 3,768 people)

Total employment in the financial sector went up by 2.2%, i.e. 955 people, during 2015. However, depending on the category of financial players, the situation diverges.

Employment in the banking sector was almost unchanged from the year before (-0.1% as compared to 2014).

The number of jobs in investment firms decreased by 4.7%. This development mainly reflects transfers of activities which, however, had no impact on the aggregate number of jobs in the financial sector, but only changed the breakdown among categories of entities. However, the specialised PFS staff increased by 10.4% as a result of three related factors, i.e. significant staff increase of several players operating in the maintenance of register and central administration of investment funds, the job creation by specialised PFS that extended their authorisation during the year and the job creation by specialised PFS authorised in 2015. Support PFS staff also increased, albeit more slightly, by 1.9%.

The positive development of the management company staff (+11.2% in 2015) mainly results from the growth in the staff number of already existing entities, some of which have strengthened their structure following an increase of activities while one entity benefited from a staff transfer following a transfer of activity within the group to which it belongs.

1,569 prospectuses, base prospectuses and other approved documents

573 supervised issuers

0.77 million reported transactions in financial instruments

The number of files submitted in Luxembourg for the approval of prospectuses to be published when securities are offered to the public or admitted to trading on a regulated market decreased compared to 2014 (-9.4%).

The CSSF supervises issuers whose securities are admitted to trading on a regulated market and whose home Member State is Luxembourg for the purposes of the Transparency Law. Their number reached 573, of which 193 Luxembourg issuers. The supervision involves a general follow-up of the regulated information to be published by issuers as well as the enforcement of the financial information, i.e. the assessment of compliance of the financial information with the relevant reporting framework, namely the applicable accounting standards.

As regards the supervision of markets and market operators, the CSSF received about 0.77 million reports on transactions in financial assets which allow observing market trends and identifying possible offences. In the framework of the law on market abuse, the CSSF opened three investigations in relation to insider dealing and/or market manipulation and dealt with 70 requests from foreign authorities.

139 on-site inspections and introductory visits

In addition to the 25 introductory visits, which, in principle, take place within the first six months after the authorisation of new players of the financial centre with the aim to accompany them in their business start-up phase, the CSSF carried out over a hundred on-site inspections in 2015. These on-site inspections covered a wide variety of aspects such as interest rate risk, operational risk, validation of credit risk and operational risk management models, credits, corporate governance, MiFID arrangements, the function of depositary bank, the function of central administration of UCIs, anti-money laundering and counter-terrorist financing, support PFS activity and market abuse. The CSSF also carried out ad hoc missions relating to a specific, or even worrying, situation or issue within a supervised entity.

Public oversight of the audit profession

The public oversight of the audit profession covered 66 *cabinets de révision agréés* (approved audit firms) and 276 *réviseurs d'entreprises agréés* (approved statutory auditors) as at 31 December 2015. The oversight also included 44 third-country auditors and audit firms duly registered in accordance with the law of 18 December 2009 concerning the audit profession.

Réviseurs d'entreprises agréés and *cabinets de révision agréés* are subject to a quality assurance review, organised according to the terms laid down by the CSSF in its capacity as supervisory authority within the context of statutory auditing and any other assignments entrusted exclusively to them by law.

584 customer complaints

Pursuant to its specific competence in consumer complaint handling, the CSSF received 584 complaints last year, most of which (46%) concerned electronic payment services issues. Complaints related to private banking came second with 13% of the total complaints handled.

628 agents

Operating costs of the CSSF in 2015: EUR 81.7 million

As in the previous year, 2015 was marked by a considerable increase of the CSSF's human resources (+73 agents) in order to face the workload arising, in particular, from the operation of the SSM at European level, the introduction of new prudential requirements, the growing importance of on-site inspections within the context of prudential supervision, the extension of the CSSF's tasks (macroprudential supervision, resolution, protection of depositors and investors) and, in general, higher volumes and increased complexity of financial products.

CHAPTER I

GOVERNANCE AND FUNCTIONING OF THE CSSF

1. PRINCIPLES

The CSSF, established by the law of 23 December 1998, with effect on 1 January 1999, is a public institution with legal personality and financial autonomy. It operates under the authority of the Minister responsible for the financial centre, i.e. the Minister of Finance Mr Pierre Gramegna.

1.1. CSSF bodies

The CSSF's Board of Directors is composed of seven members appointed by the Grand Duke on the proposal of the Government in Council for a period of five years. The powers conferred upon the Board of Directors notably include the annual adoption of the CSSF's budget and the approval of the financial statements and of the management report of the CSSF's Executive Board, which are submitted to the Board of Directors before being presented to the Government for approval. It also sets the general policy as well as the annual and long-term investment programmes which are submitted to it by the Executive Board before being submitted for approval to the Minister of Finance. The meetings and deliberations of the Board of Directors take place according to its internal rules. The Board of Directors is not competent to intervene in the CSSF's prudential supervisory matters.

The senior executive authority of the CSSF is the Executive Board, composed of a Director General and of two to four Directors, appointed by the Grand Duke on the proposal of the Government in Council for a period of five years. The Executive Board works out the measures and takes the decisions it deems useful and necessary for the fulfilment of the CSSF's mission and its organisation. Moreover, it sets up a five-year "target contract" with the Minister of Finance. The Executive Board is responsible for the reports and proposals it is obliged to address to the Board of Directors and the Government.

1.2. Decision-making process

According to its internal rules, the Executive Board must meet collectively at least once a week to take the decisions required to accomplish the CSSF's mission. The Executive Board is responsible collectively even if each individual member runs one or several departments.

The decisions taken by the CSSF as part of its mission may be referred to the *Tribunal administratif* (Administrative Court), which decides on the merits of the case. These remedies must be filed, under penalty of foreclosure, within one month from the notification of the decision.

1.3. Drawing-up of regulations

The CSSF has the power to make regulations within the limits of its competences and missions, in accordance with Article 9(2) of the law of 23 December 1998. Draft regulations must be submitted to the Consultative committee for prudential regulation or the Consultative committee for the audit profession. The CSSF regulations are published in the *Mémorial*.

The legislative framework applicable to the financial sector is complemented by circulars issued by the CSSF with a view to specifying how legal provisions should be applied and issuing recommendations on conducting business in the financial sector.

Following the example of international fora and counterpart authorities, the CSSF has established a broad consultation procedure, which involves, while the regulations and circulars are being drafted, the professionals of the financial sector, as well as any other person concerned, notably via expert committees and ad hoc working groups.

1.4. Financing of the CSSF and account auditing

The CSSF is authorised to levy taxes on supervised persons and undertakings to cover its staff, financial and operating costs. The Grand-ducal Regulation of 28 October 2013 lays down the amounts applicable and guarantees full financing of the operating costs.

The Government appoints a *réviseur d'entreprises agréé* (approved statutory auditor) on the proposal of the CSSF's Board of Directors for a period of three years. The mission of the *réviseur d'entreprises agréé* is to audit and certify the CSSF's accounts and to submit a detailed report on the CSSF's accounts to the Board of Directors and the Government at the close of the financial year. The *réviseur d'entreprises agréé* may be charged by the Board of Directors with making specific checks.

The CSSF is subject to the control of the Court of Auditors (*Cour des comptes*) as to the appropriate use of the public financial participation it receives.

2. GOVERNING BODIES

Board of Directors

Chairwoman	Isabelle GOUBIN	Director of the Treasury, Ministry of Finance
Members	Rima ADAS	Institut des réviseurs d'entreprises
	Serge DE CILLIA	Chief Executive Officer of the Luxembourg Bankers' Association
	Marny SCHMITZ	Attachée de gouvernement, Ministry of Finance
	Camille THOMMES	Director General of the Association of the Luxembourg Fund Industry
	Claude WIRION	Chairman of the Executive Committee of the Commissariat aux Assurances
Secretary	Danielle MANDER	

Executive Board

Director General	Claude MARX (as from 5 February 2016)
	Jean GUILL (until 4 February 2016)
Directors	Simone DELCOURT
	Andrée BILLON (until 21 janvier 2016)
	Claude SIMON
	Françoise KAUTHEN (as from 22 January 2016)

Executive Board of the CSSF
Left to right: Claude SIMON, Françoise KAUTHEN, Claude MARX, Simone DELCOURT

3. COMMITTEES

3.1. Consultative committees

3.1.1. Consultative committee for prudential regulation

The Government may seek advice from the committee, constituted by the law of 23 December 1998 establishing a financial sector supervisory commission (Commission de surveillance du secteur financier), on any draft law or Grand-ducal regulation in the field of the financial sector falling within the competence of the CSSF. The CSSF's Executive Board seeks the opinion of the committee on any draft CSSF regulation other than those related to statutory audits and the audit profession. Members of the committee may also seek its advice concerning the implementation or application of prudential regulations overall or for specific issues. The external members of the committee are appointed by the Minister of Finance.

Committee composition:

Executive Board of the CSSF:	Claude Marx (Chairman), Simone Delcourt, Claude Simon, Françoise Kauthen
Members:	Anouk Agnes, Serge de Cillia, Alain Feis, Isabelle Goubin, Robert Scharfe, Carlo Thill, Camille Thommes
Secretary:	Danielle Mander

3.1.2. Consultative committee for the audit profession

The Government may seek advice from the committee, established by the law of 18 December 2009 concerning the audit profession, on any draft law or Grand-ducal regulation related to statutory audits and the audit profession subject to the oversight of the CSSF. The CSSF's Executive Board seeks the opinion of the committee on any draft CSSF regulation related to statutory audits and the audit profession. Members of the committee may also seek its advice concerning the implementation or application of the regulation of public oversight of the audit profession overall or for specific issues. The external members of the committee are appointed in accordance with Article 15-1 of the law of 23 December 1998 establishing a financial sector supervisory commission (Commission de surveillance du secteur financier).

Committee composition:

Executive Board of the CSSF:	Claude Marx (Chairman), Simone Delcourt, Claude Simon, Françoise Kauthen
Members:	Anouk Agnes, Serge de Cillia, Yasmin Gabriel, Sophie Mitchell, Jean-Michel Pacaud, Daniel Ruppert, Philippe Sergiel, Anne-Sophie Theissen, Claude Wirion
Secretary:	Danielle Mander

3.2. Permanent and ad hoc expert committees

The expert committees assist the CSSF in analysing the development of the different areas of the financial sector, give their advice on any issue relating to their activities and contribute to the drawing-up and interpretation of the regulations relating to areas covered by the respective committees. In addition to the permanent committees listed below, ad hoc committees are formed to examine specific subjects.

The permanent expert committees are the following:

- Anti-Money Laundering Committee;
- Banks Issuing Covered Bonds Committee;
- Banks and Investment Firms Committee;
- Bank and Investment Firm Accounting Committee;

- Depositaries Committee;
- Pension Funds Committee;
- AIFM Committee;
- Corporate Governance Committee;
- Undertakings for Collective Investment Committee;
- Financial Consumer Protection Committee;
- SICAR Committee;
- Audit Technical Committee;
- Securitisation Committee.

In 2015, the following people took part in the different expert and ad hoc committees of the CSSF:

ADAS Rima
Institut des réviseurs d'entreprises

AGNES Anouk
Association of the Luxembourg Fund Industry

AREND Pascale
Commissariat aux Assurances

BASENACH Karin
European Consumer Centre

BECHET Marc-André
Association of the Luxembourg Fund Industry

BECKER Julie
Société de la Bourse de Luxembourg S.A.

BERGER Michèle
FundPartner Solutions (Europe) S.A.

BIRASCHI Sonia
State Street Bank Luxembourg S.A.

BLINN Bettina
BDO Audit

BOURIN Catherine
The Luxembourg Bankers' Association

BRAUSCH Freddy
Linklaters LLP

BRUNET Stéphane
BNP Paribas Investment Partners Luxembourg S.A.

COLBERT Cheryl
Ministry of Higher Education and Research

CROISÉ Daniel
BDO Audit

DAMGÉ Stéphanie
Jonk Entrepreneuren Luxembourg

DE CILLIA Serge
The Luxembourg Bankers' Association

DELVAUX Jacques
Notary

DOLLE Emmanuel
KPMG Luxembourg

DUREN Philippe
PricewaterhouseCoopers

ELVINGER Jacques
Elvinger, Hoss & Prussen

EVRARD Amaury
PricewaterhouseCoopers

FEIS Alain
Interinvest S.A.

FISCHER Rafik
KBL European Private Bankers S.A.

FLAUNET Martin
Deloitte

GABRIEL Yasmin
Ministry of Finance

GOEDERT Guy
Union Luxembourgeoise des Consommateurs

GOUBIN Isabelle
Ministry of Finance

GRIGNON DUMOULIN Hubert
Société de la Bourse de Luxembourg S.A.

GROSJEAN Thierry
Association Luxembourgeoise des Compliance Officers du Secteur Financier

HAUSER Joëlle
Clifford Chance

HENGEN Marc
Association des Compagnies d'Assurances

HOFFMANN Robert
Loyens & Loeff

JANSEN Laurent
BGL BNP Paribas

JUNGEN Steve
Ministry of National Education, Childhood and Youth

KAEMPFF Bob
Banque centrale du Luxembourg

KINSCH Alain
Ernst & Young

KREMER Christian
Clifford Chance

KREMER Claude
Arendt & Medernach

LEFEVRE Olivier
Deloitte

LENERT Jerry
Ministry of Higher Education and Research

LHOEST Bernard
Ernst & Young

MEDERNACH Jean
Investas S.à r.l.

MEYER Philippe
KPMG Luxembourg

MITCHELL Sophie
Institut des réviseurs d'entreprises

MULLER Charles
KPMG Luxembourg

NIEDNER Claude
Arendt & Medernach

PACAUD Jean-Michel
Institut des réviseurs d'entreprises

PÉRARD Frédéric
BNP Paribas Securities Services, succursale de Luxembourg

PETRY Pierre
Banque Internationale à Luxembourg

PIERRE Gilles
The Luxembourg Bankers' Association

RECKINGER Pit
Elvinger, Hoss & Prussen

RIES Marie-Josée
Ministry of Economy

RODESCH Monique
Ligue Médico-Sociale

ROEDER Carole
Banque centrale du Luxembourg

RUDDY Dee
KPMG Luxembourg

RUPPERT Daniel
Ministry of Justice

SALUZZI Marc
Association of the Luxembourg Fund Industry

SAUVAGE Benoît
The Luxembourg Bankers' Association

SCHARFE Robert
Société de la Bourse de Luxembourg S.A.

SCHINTGEN Gilbert
UBS Fund Services (Luxembourg) S.A.

SCHLEIMER Pierre
Allen & Overy

SCHMITT Alex
Bonn & Schmitt

SCHMITZ Hans-Jürgen
Mangrove Capital Partners S.A.

SCHMITZ Marny
Ministry of Finance

SEALE Thomas
European Fund Administration S.A.

SIX Jean-Christian
Allen & Overy

TESTA Sylvie
Ernst & Young

THILL Carlo
BGL BNP Paribas

THOMMES Camille
Association of the Luxembourg Fund Industry

THURMES Vincent
Ministry of Finance

TOURNIER Olivia
Lombard Odier Funds (Europe) S.A.

VALSCHAERTS Dominique
Fundsquare S.A.

VERACHTERT Eef
Brown Brothers Harriman (Luxembourg) S.C.A.

VINCIARELLI Paolo
Banque et Caisse d'Épargne de l'État

VOSS Denise
Franklin Templeton International Services S.à r.l.

WAGNER Henri
Allen & Overy

WARKEN François
Arendt & Medernach

WATELET Patrick
Citibank International Plc, Luxembourg branch

WEBER Alain
Banque de Luxembourg S.A.

WIRION Claude
Commissariat aux Assurances

YIP Johnny
Deloitte

ZIMMER Julien
DZ PRIVATBANK S.A.

ZURSTRASSEN Patrick
Institut Luxembourgeois des Administrateurs

4. HUMAN RESOURCES

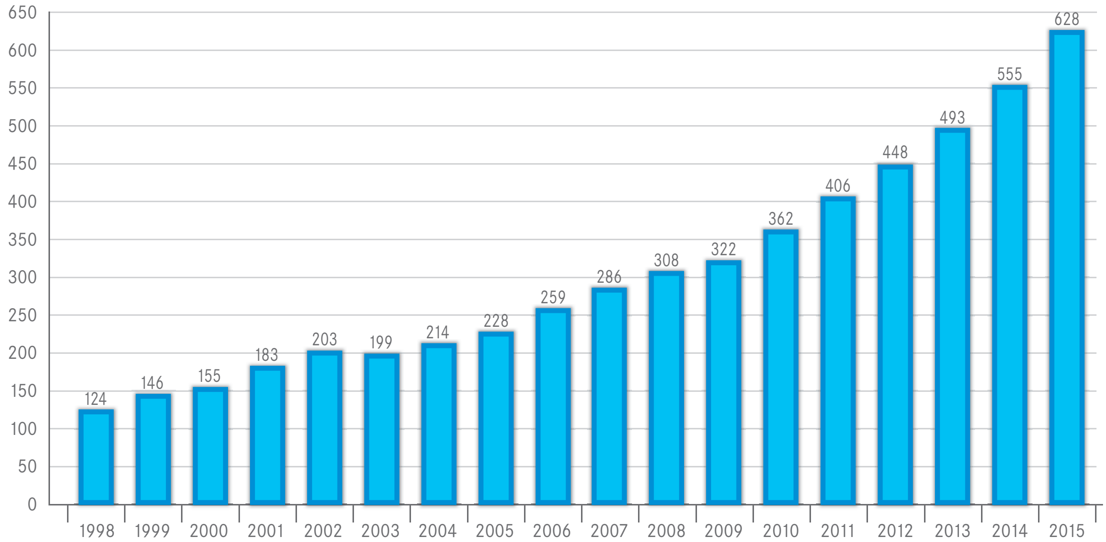
4.1. CSSF staff

Since 2010, CSSF staff has increased significantly. In 2015, 83 new agents were recruited. Following the resignation of 10 agents over that period, total employment reached 628 units as at 31 December 2015, representing a 13.15% increase compared to 2014. This is the equivalent of 552.55 full-time jobs, i.e. a 11.95% growth compared to 2014.

Following the reform within the Luxembourg Civil Service which brings about many changes including some concerning part-time work and leave without pay, there has been an evolution in this respect with now 146 agents working part-time, on partial leave, parental leave or leave without pay, which represented 23.40% of total staff at 31 December 2015.

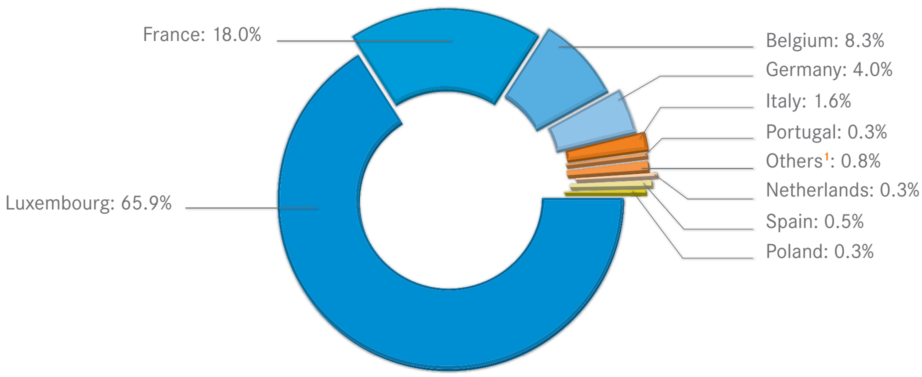
In 2015, the CSSF received 2,214 job applications, including 151 spontaneous applications and 47 internal applications. As in the previous years, recruitment mainly focussed on University degrees and candidates' competence.

Movements in staff numbers



CSSF agents represent 14 nationalities, the Luxembourg nationality being the most represented with 65.92% of total staff. However, the percentage of Luxembourg agents is falling continuously.

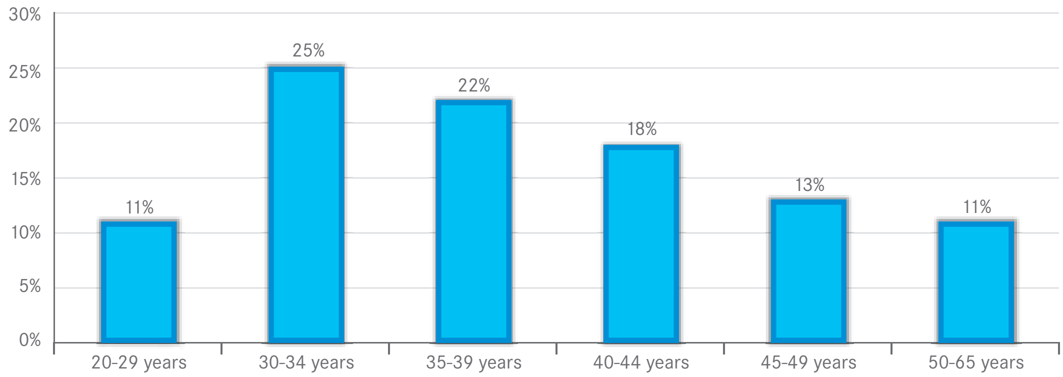
Breakdown of staff by nationality



[1] Austria, Greece, Ireland, Romania, United Kingdom.

The average age of CSSF staff members increased slightly from 38.54 years as at 31 December 2014 to 38.82 years at the end of 2015. Women make up 48.41% of total staff and men 51.59%.

Breakdown of staff by age

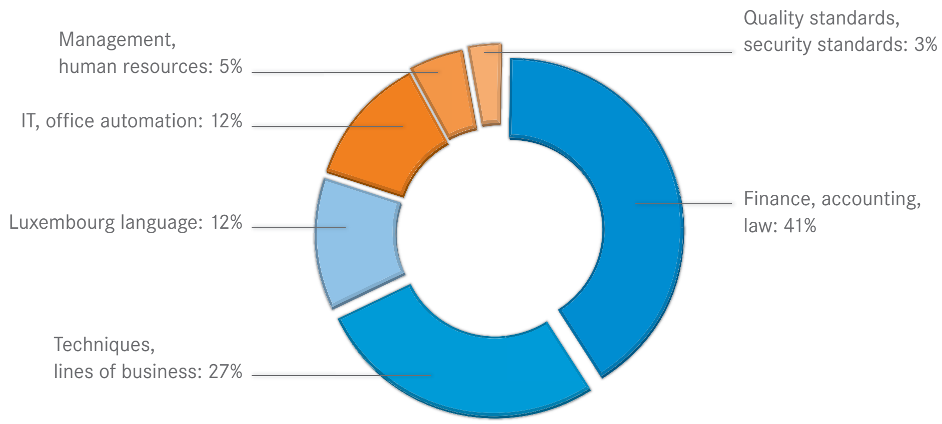


4.2. Staff training

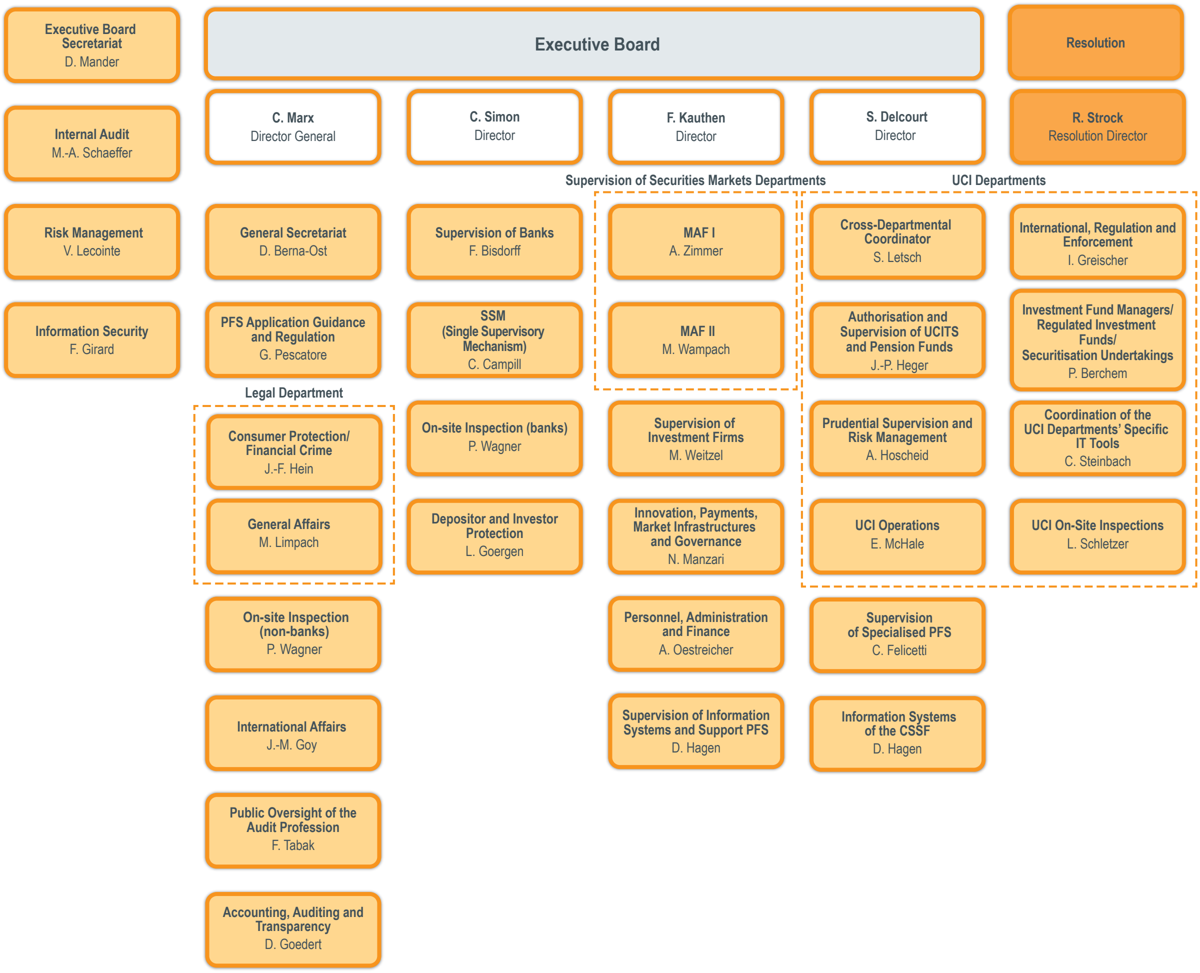
In 2015, CSSF staff attended a total of 491 training sessions, i.e. 3,228 training days or 19,370 training hours. This figure represents an average of 5.41 training days per agent. As it is capital that the CSSF agents' expertise is at any time in adequacy with the evolution of markets and financial products, as well as with the work methods and techniques of the supervised entities, training is highly encouraged.

These training courses consisted of both continuing education, offered to CSSF staff throughout their professional career, and training during the internship to become a *fonctionnaire* (civil servant). Thus, out of a total 19,370 training hours, 15,745.5 were followed in the context of continuing professional education and 3,624.5 hours in the framework of internships.

Breakdown of training sessions according to topic



4.3. Organisation chart



An organisation chart of the CSSF is available on the CSSF website in the section "The CSSF", sub-section "General organisation".

5. CSSF LIBRARY

The CSSF library is a reference library which is part of the Luxembourg libraries' network bibnet.lu since 2009. It is specialised in banking and financial law as well as financial economy. It contains around 3,000 books and around 50 periodicals and update publications. The library also has a certain number of specialised electronic databases.

All the books in the library are listed in the general catalogue of the bibnet.lu network. The unified search engine of the collections of the network (www.a-z.lu) enables an easy search of the books available in the CSSF library and in all Luxembourg libraries.

The library is open to the public by appointment, Monday through Friday from 9 a.m. to 11 a.m. and from 2 p.m. to 4 p.m.

6. NEW CSSF HEADQUARTERS

As staff numbers are growing and the existing infrastructures no longer sufficient to welcome all its resources, the CSSF decided in 2011 to build new headquarters at the intersection of route d'Arlon and rue des Aubépines in Luxembourg City. This decision was taken with a view to streamlining and increasing efficiency, and to concentrating on a single site the activities which, at a given time, were spread over three different sites. This allows enhancing the processes and, thereby, the CSSF's functioning with a view to an efficient performance of the missions assigned to it.

With a net usable surface area of 14,200 square meters, the new building boasts about 7,000 square meters of office surface (i.e. about 680 workstations), a canteen, a public library, many meeting rooms, a large conference room, four training rooms, as well as a fitness room.

One of the highlights of the new headquarters is its flexible interior which allows the building to adapt to different configurations and leaves open many options. At the upper levels and on ground level, the layout of the offices is versatile although dense and compact.

Strong emphasis was placed on the energy concept of the building in order to reach a high level of performance combined with a maximum comfort, by minimising energy losses and consumption.

In order to limit subsequent costs, the rational exploitation of the premises has been made a priority as from the start of the planning.

In the course of 2015, the interior and technical work was completed according to schedule. The keys were handed over in August 2015 and moving started in September 2015 ending mid-December 2015.

The CSSF's new "Aubépines" headquarters was officially inaugurated on 27 November 2015 in the presence of Prime Minister Xavier Bettel, Minister of Finance Pierre Gramegna and the Mayor of the City of Luxembourg Lydie Polfer.

7. INFORMATION SYSTEMS

For several years now, the division in charge of the CSSF's IT systems has been part of the department "Information systems and supervision of support PFS". This division is in charge of installing, maintaining and developing the CSSF's internal IT infrastructure as well as managing the electronic reporting of supervised entities.

7.1. FINREP and COREP, Business Intelligence and European developments

The local specificities of FINREP and COREP for banks and investment firms are documented on the following CSSF Internet pages:

- http://www.cssf.lu/en/supervision/banks/legal-reporting/recueil/prudential-reporting/common-european-reporting-extended-corep/
- http://www.cssf.lu/en/supervision/pfs/inv-firm/legal-reporting/

There are, among other things, a set of additional CSSF plausibility rules that allow increasing data quality. Recently, a set of ECB rules identified within the working groups of the Single Supervisory Mechanism (SSM) were added to this file which includes the mandatory rules of the CSSF. Compliance is recommended (and the rules might, in the medium term, be integrated into the EBA taxonomies), but non-compliance does currently not trigger rejection by the CSSF.

On a regular basis, the EBA publishes taxonomies applicable for FINREP and COREP at the Internet address http://www.eba.europa.eu/regulation-and-policy/supervisory-reporting/implementing-technical-standard-on-supervisory-reporting-data-point-model-.

The version applicable since the period 2015-06 is V2.3.1. The integration of the two next versions V2.4.1 and V2.5.0, published by the EBA at http://www.eba.europa.eu/regulation-and-policy/supervisory-reporting/implementing-technical-standard-on-supervisory-reporting-data-point-model-, is under way. V2.4.1 will replace V2.4.0 which was never used.

In the absence of a publication of all the corresponding Implementing Technical Standards (ITS) in the Official Journal of the EU, the EBA has not yet been able to define the period for the first application of version V2.4.1. However, it is foreseeable that it will be applicable within six months following its publication in the Official Journal.

The CSSF requests XBRL instances to be 100% compatible with the EBA taxonomies, including compliance with the additional EFR (European Filing Rules) in revision 4.1. as described at http://www.eba.europa.eu/documents/10180/1181744/EBA+XBRL+Filing+Rules+v4.1.pdf/7ddde3fd-105b-4839-ae21-fe8be758e9dd.

Compliance with the rules in the different taxonomy versions is still mandatory. In general, the CSSF updates the list of deactivated rules within the first working days following publication by the EBA, as documented at http://www.cssf.lu/en/supervision/banks/legal-reporting/file-transport-and-data-protection/.

The CSSF systematically generates for all instances submitted and containing correct XBRL information, a version of the instance in .xlsx format which includes information on the values of the instance concerned and the infringed validation rules. This file is returned to the entities in order to assist them in correcting the errors.

A team of two people has been formed to work on the enhancement and modernisation of the CSSF's Business Intelligence. A first proof-of-concept system has been set up. This project will continue in 2016 and 2017 in order to allow the controlling agents a flexible and adaptable access to CSSF data (mainly reporting data), as well as a simple and adaptable definition of additional validation rules and calculated indicators (key risk indicators, KRI). Another planned key function is allowing easy comparability of data of reporting entities with peer groups and efficient mechanisms to manage exceptions (deviation from expected figures).

At the level of the SSM, more and more efforts are made to make available centralised systems for local use and for the purpose of national supervision to the national competent authorities in the medium term. In the long term, this could lead to the substitution of certain national systems by equivalent European systems.

7.2. Modification of the exchange protocol used with the reporting channels

The current protocols are somewhat obsolete as they are based on a transfer of encrypted files and, thus, in an asynchronous mode. Combined with the project of documentary overhaul, the CSSF decided to shift the exchange protocol towards web-services in light of the implementation of the Service Oriented Architecture (SOA) concept. In 2015, the protocol was modified for notification procedures in the context of UCITS IV and it is planned to extend the coverage of services to other procedures in 2016.

In order to decouple the channel interface from other applications receiving information, such as the document management system, the CSSF launched the project TRAM (TRAnsmission & Mediation) which is built around an Enterprise Service Bus (ESB) or Middleware that routes information between applications. It is also planned to decouple cryptographic functions that are currently integrated in the application server from the channels in order to transform them into an external component in charge of all the CSSF's cryptographic functions.

The channel operators and the market have the possibility to increase the protocol interactivity. It will thus be possible to provide filers, via the channels, an almost immediate return on the reception by the CSSF of the transmitted procedures or reports, independently of content verification. The communication will thus become synchronous between the CSSF and the channels, while remaining asynchronous with respect to the applications that process data. Moreover, using an ESB makes it possible to avoid modifying every application in order to integrate the workflows submitted to it. Thereby, applications can be kept as generic as possible, facilitating the management of the versions provided by the editor of the software.

7.3. IT equipment of the new headquarters

In the context of the CSSF's move, the IT department was active since mid-September 2015, mobilising a team during 14 consecutive weekends for the move of the workstations and telephones. The department-by-department move took place during this period.

As stated in the 2014 Annual Report, the CSSF took this opportunity to set up state-of-the-art computer rooms. The network infrastructure and the racks for physical servers have been entirely renewed. The installation of the computer rooms has also required a review of the backup centre which was fully operational for one month, the time needed to move equipment from the primary site to the new headquarters. This allowed testing the IT resilience as the CSSF agents worked on the servers of the backup centre for several weeks. Another point which is worth noting is the temporary complexity of the configuration of the fibre-optic lines, as a triangulation was necessary between the "Mercator" building, the new headquarters and the backup centre, while integrating communication with the "Serenity" building in Strassen where the UCI departments were located.

7.4. Overhaul of document management

The FileDoc project, which will replace the electronic document management system (DMS) in place at the CSSF, will be finalised in 2016. The project comprises two aspects: the migration of documents from the former DMS towards FileDoc and the integration of the "business" functions into FileDoc in order to handle the procedures linked to the authorisation of fund prospectuses and securities admitted to trading. The migration mobilised users intensively as they were required to define the links between their folders and files in the current DMS and the new classification plan which is more homogeneous for the CSSF. The project also depends on the TRAM project, as explained in point 7.2. above, as the objective is to avoid too specific developments within FileDoc.

8. BUDGET AND ANNUAL ACCOUNTS OF THE CSSF - 2015

8.1. CSSF budget

Budget planning is integrated in the CSSF's management cycle and part of a multi-year planning of CSSF results; it thereby allows guaranteeing the financial balance of the CSSF in the long term.

The 2015 budget was drawn up in accordance with the principles which have proved their worth in the previous financial years. It was approved by the Board of Directors of the CSSF on 28 November 2014.

The key factors that have affected the 2015 budget are the following:

- To address the growing need in staff, in particular in the context of the new architecture for financial supervision in Europe and given the growth of the fund industry, the budget took into account an increase in CSSF staff, in terms of operational and support departments.
- In the context of its real estate strategy, consisting in moving all CSSF staff into one building, the 2015 budget took into account the costs relating to the achievement of the new "Aubépines" headquarters.
- In accordance with the recommendations of the Board of Directors of the CSSF, special emphasis was placed on the quality of the IT infrastructure and operation. The budgeted expenses for 2015 reflected the will of optimisation, knowing that the operation of powerful IT tools and the establishment of a leading-edge infrastructure have a positive impact on the work processes.

The CSSF's finance division closely monitors the budget and draws up monthly reports for the Executive Board. An analysis detailing the gaps between the budgeted figures and the real figures is made at the end of every financial year. It should be noted that as at 31 December 2015, the amount of operating costs and investment costs remained below the budgeted amounts set for 2015.

8.2. Annual accounts of the CSSF - 2015

BALANCE SHEET AS AT 31 DECEMBER 2015

Assets	*EUR*
Fixed assets	
- Intangible fixed assets	
Research and development costs	189,156
Payments on account and intangible assets in progress	3,065,754
	3,254,910
- Tangible fixed assets	
Land and constructions	58,239,568
Other fixtures, fittings, tools and equipment	563,407
	58,802,975
Current assets	
- Trade debtors	
with a residual term of up to one year	2,712,810
- Other debtors	
with a residual term of up to one year	2,224
- Cash at banks, in postal cheque accounts, cheques in hand	57,327,486
	60,042,520
Prepayments and accrued income	3,276,218
Balance sheet total (Assets)	**125,376,622**
Liabilities	
Own capital	
- Profit brought forward	51,772,842
- Result for the financial year	1,221,521
	52,994,363
Provisions	
- Other provisions	3,775,613
	3,775,613
Non-subordinated liabilities	
- Amounts owed to credit institutions	
with a residual term of up to one year	2,883,333
with a residual term of over one year	57,134,283
	60,017,616
- Debts on purchases and provision of services	
with a residual term of up to one year	2,865,450
- Tax and social security debts	
Tax debts	575,229
Social security debts	3,106,594
	3,681,823
- Other debts	
with a residual term of up to one year	2,003,258
	68,568,147
Prepayments and accrued income	38,499
Balance sheet total (Liabilities)	**125,376,622**

PROFIT AND LOSS ACCOUNT AS AT 31 DECEMBER 2015

Charges	*EUR*
Consumption of merchandise and consumable raw materials	354,422
Other external charges	13,351,631
Staff costs	
- Wages and salaries	61,995,660
- Social security costs attributable to wages and salaries	3,234,150
Value adjustments on	
- Formation expenses and tangible and intangible fixed assets	512,665
Other operating charges	1,039,011
Interests and other financial charges	
- Other interests and charges	1,253,314
Result for the financial year	**1,221,521**
Total charges	**82,962,375**

Income	
Net turnover	82,515,430
Other operating income	331,073
Other interests and financial revenues	115,872
Total income	**82,962,375**

Financial controller Deloitte Audit

CHAPTER II

THE EUROPEAN DIMENSION OF THE SUPERVISION OF THE FINANCIAL SECTOR

1. SUPERVISION OF BANKS

1.1. Banking Union

Following the achievement of the first pillar of the Banking Union in 2014, namely the establishment of a single banking supervision, the integration of the euro-area banking systems continued in 2015 with the preparation of the entry into force of the second pillar of the Banking Union, i.e. the Single Resolution Mechanism (SRM). The central authority of the SRM, the Single Resolution Board (SRB), started its work as an independent EU agency as of 1 January 2015. Finally, work is under way to complete the Banking Union with its third pillar, namely the European Deposit Guarantee Scheme, for which the European Commission presented a proposal for establishment in November 2015.

1.2. Single Supervisory Mechanism (SSM)

In the SSM's first year of operation, the organisational structure of the CSSF proved well-adapted to exercise its missions as an SSM member. Besides participating in the supervision of the Luxembourg significant banks, the CSSF actively contributed to the work of many advisory bodies and support functions of the ECB (about 70 working groups) and, more particularly, participated in the decision-making process of the SSM within the Supervisory Board.

Mr Claude Simon, Director, represents the CSSF in the Supervisory Board. The Board is composed of high-level representatives of the different national supervisory authorities (competent authorities) and ECB representatives and meets twice a month to discuss a wide range of issues relating to banks that are under the SSM's supervision. In addition to face-to-face meetings and teleconferences, the Board can take decisions through written procedure. The CSSF thus participated in a total of 38 meetings and contributed to the decision-making process for 984 written procedures.

In 2015, the Board was called upon to decide on subjects as diverse as authorisation of credit institutions, withdrawal of authorisations, assessment of acquisitions and disposals of qualifying holdings in banks, and appraisal of good repute and knowledge, as well as of competence and experience of the members of the management bodies of significant banks. A great deal of time had also been invested in the practical implementation of the SSM's supervision. The Board fine-tuned its supervisory approach by developing new internal guidance and revisiting certain guidelines already issued in 2014.

The Board is assisted by a Steering Committee whose main mission is to support the activities of the Board, among others by preparing its meetings. The Steering Committee is composed of eight members of the Board, including three ECB representatives and five representatives of national competent authorities appointed based on a rotation system. The CSSF was represented by Mr Claude Simon, Director, for a period of 12 months as of 1 April 2015.

1.2.1. Development of policy stances for the supervision of banks within the SSM

With a view to harmonising the application of requirements under CRD IV and the CRR, specified, where applicable, by regulatory and implementing technical standards or by EBA guidelines, the Supervisory Board also develops policy stances.

In 2015, the Board notably established an SSM policy stance relating to the qualifications of the members of the management bodies of significant credit institutions subject to the prudential supervision of the ECB. This guidance defines the administrative practice of the ECB concerning the assessment of different criteria, such as the time commitment of a candidate to perform his/her management function, the disclosure and management of possible conflicts of interest or the assessment of a management body's collective suitability. Other policy stances were developed in early 2016, in particular with regard to interviews with candidates, evaluation of relevant experience and criteria for conditional approvals.

Policy stances regarding the assessment of proposed acquisitions of qualifying holdings in credit institutions by specific acquirers (such as private equity funds, hedge funds and sovereign funds) have been developed.

For these types of acquisitions, the SSM assesses in particular the reputation of the acquirer, the impact of the acquisition on the financial stability of the acquirer or the long-term commitment of the acquirer.

1.2.2. Adoption of regulatory texts

In other areas, notably prudential reporting by banks, the harmonisation of prudential rules applicable within the SSM takes place via regulatory acts of general application.

In 2015, the ECB thus adopted Regulation (EU) 2015/534 of 17 March 2015 on reporting of supervisory financial information (ECB/2015/13) in order to harmonise and define rules and procedures relating to the reporting of financial information by all the banks supervised by the SSM.

This regulation introduces a common minimum level for reporting supervisory financial information to the ECB. Banks that establish their consolidated accounts according to international accounting standards (IFRS) were already required to submit supervisory financial reports on a regular basis (FINREP) under Implementing Regulation (EU) No 680/2014. Regulation ECB/2015/13 aims at extending these rules by specifying the requirements for the reporting of supervisory financial information by banks issuing consolidated accounts under national accounting rules, as well as for the reporting of supervisory financial information by banks on an individual basis. The regulation applies to significant and less significant banks while observing the principle of proportionality. Thus, the scope of the financial information to submit to the ECB increases proportionally to the total assets of the banks.

1.2.3. Harmonisation of options and national discretions under EU law

In order to foster harmonisation of prudential supervision of significant banks within the euro area, the ECB worked on defining the exercise of certain options and national discretions (ONDs) in the EU banking legislation. This work was strictly limited to ONDs that can be exercised by competent authorities, while the exercise by the ECB of ONDs given to EU Member States is made according to the national legal provisions that transpose them. This work, which addressed 155 provisions of CRD IV, the CRR and the relevant delegated texts, will be finalised in 2016 with the adoption of two instruments: an ECB regulation which defines the modality of application of general ONDs and a guide containing guidelines for the exercise of ONDs that need decisions on a case-by-case basis at the level of individual banks. Both documents will be applicable to the significant banks under the direct supervision of the ECB and will be the first major step towards creating a level playing field within the euro-area banking sector. The documents were submitted to public consultation at the end of 2015. The ECB will publish the regulation, the guide and the outcome of the public consultation in 2016.

The work on harmonising options and discretions under EU law will continue in 2016, covering the rest of the ONDs of a lower priority (20 provisions) or for which additional analyses were necessary (eight provisions). In addition, the ECB will assess to what extent the policy on ONDs can be implemented for the less significant institutions in order to further enhance convergence.

The CSSF contributed to this work in the framework of a High-Level Group on ONDs composed of Supervisory Board alternates. The global impact of the harmonised exercise of ONDs on regulatory capital requirements of Luxembourg significant banks will not be substantial. Nevertheless, the ECB's restrictive approach relating to the attribution of derogations to the application of liquidity requirements on individual basis will oblige certain Luxembourg banks to maintain more high-quality liquid assets in Luxembourg. The CRR allows exempting, partially or totally, exposures, including all types of holdings, taken by an institution towards its parent undertaking, other subsidiaries of this parent undertaking or its own subsidiaries in the context of the rules governing monitoring of large exposures. This "intra-group exposure" exemption option can be exercised as competent authority (Article 400(2)(c) of the CRR) or as Member State in the framework of transitional provisions (Article 193(3) of the CRR). Luxembourg has opted for the exercise of this transitional provision. Hence, the modalities defined by the ECB, which describe in detail the elements to be considered by a competent authority in order to grant such an exemption, do not apply to the significant banks under Luxembourg law. Nevertheless, it is worth noting that the modalities of the ECB are globally in line with the Luxembourg relevant applicable law.

1.2.4. Implementation of the Supervisory Review and Evaluation Process (SREP)

In 2015, significant measures were taken in order to harmonise European banking supervision by applying a common methodology for the SREP. The aim of the SREP is to foster a resilient banking system which is able to finance the euro-area real economy soundly and sustainably. The CSSF helped develop the methodology at the level of the Joint Supervisory Teams (JSTs) and working groups organised by horizontal divisions of the ECB.

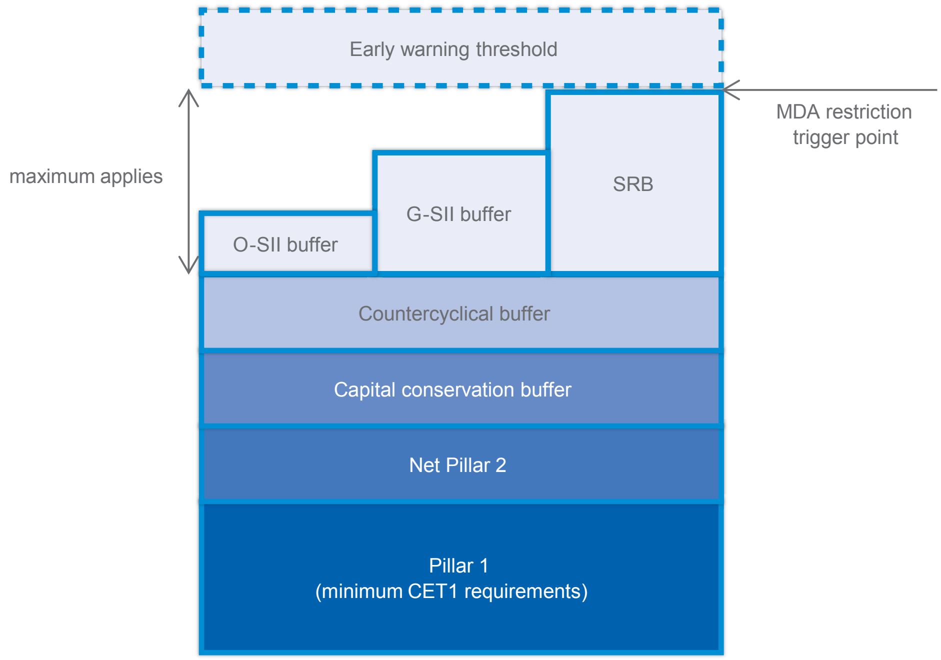
For the first time, all the significant institutions in the euro area have been assessed according to a common set of methodologies and standards. A holistic and forward-looking assessment of the viability of credit institutions subject to the direct supervision of the ECB was carried out, while applying proportionality. Quantitative and qualitative elements were combined through a constrained expert judgement approach. Thus, the 2015 SREP assessed the following four main components:

- business models: a review of the banks' business model viability and profit sustainability;
- governance and risk management: a review of the operational and organisational structure, as well as the overall risk management framework;
- risks to capital: an assessment of capital-related risks and risk controls in order to determine capital adequacy or the need for additional capital;
- liquidity and funding: an analysis of the liquidity and funding position of banks as well as of the relevant risks and controls in order to determine the need for additional liquidity buffers.

With regard to the determination of the Maximum Distributable Amounts (MDA), the new SSM methodology is based on the opinion published by the EBA on 18 December 2015 (ref.: EBA/Op/2015/24). This approach might nonetheless be revisited, in response to future regulatory developments or to the application of the EBA guidelines, in order to ensure consistency and harmonisation within the Single Market.

The methodology used for the 2015 SREP resulted in a rise in Pillar 2 capital requirements by 50 basis points. This rise takes into account the euro area's position in the economic cycle, reflected by an average increase of Pillar 2 capital requirements by 30 basis points, and the effect of the phase-in of the combined buffer requirement (20 basis points).

Breakdown of capital requirements



(Source: ECB Annual Report 2015)

The SSM recognises the importance of allowing institutions to adequately plan their capital management. In this context, the ECB has issued two recommendations on dividend distribution and remuneration policies in relation to the financial years 2014 and 2015 (ECB/2015/2 and ECB/2015/49) which set out the SSM's expectations regarding a sound distribution policy. Finally, it should be stressed that the Pillar 2 requirements set out in the 2015 SREP decisions provide a good indication for future requirements.

1.2.5. Comprehensive assessment

In the context of banking supervision and in order to ensure that banks are adequately capitalised and manage risks in a forward-looking perspective, the ECB carried out a comprehensive assessment of the balance sheets of banks that become newly eligible for its direct supervision. The assessment comprises an asset quality review (AQR) and a stress test. Besides monitoring the quantitative and qualitative adjustments imposed on certain significant banks at the outcome of the first comprehensive assessment of 130 banks in 2014, the ECB assessed, in 2015, nine banks that were becoming subject to its direct supervision. This has notably been the case for the Luxembourg entity J.P. Morgan Bank Luxembourg S.A., which is subject to the ECB's direct supervision since early 2016, after having crossed the threshold of total net assets above 20% of Luxembourg GDP.

1.2.6. Other measures taken for the implementation of the SSM supervisory model

As regards the internal models used by the banks, a unified framework for ongoing model monitoring was set up in the SSM and an SSM-wide process for the approval of models is being developed. In order to promote a uniformly compliant implementation of Pillar 1 models as well as the harmonisation of supervisory practices, a network of senior experts is working on a targeted review of internal models (TRIM). TRIM foresees on-site investigations of selected credit, market and counterparty credit risk models from 2017 on.

In other supervisory areas, teams have been set up to develop common methodologies for on-site inspections within the SSM, notably in the context of inspections regarding business models, profitability and ILAAP. Other specialised teams are working on topics such as credit risk, counterparty credit risk, custody business, accounting, market risk and IT risk.

Given the overall impact of corporate governance on the banks' risk profile and business sustainability, the Supervisory Board approved the launch of a thematic review on risk governance and appetite of credit institutions at the SSM level in 2015. To this end, 113 JSTs performed deep assessments of the banks' management bodies in charge of supervisory and management functions and their risk appetite frameworks, in order to be able to issue individual recommendations to the institutions that have been reviewed.

Other thematic reviews covered IT risk, cyber security and leveraged finance.

1.2.7. Supervisory priorities for 2016

The risks to which the euro-area banking sector will be exposed in 2016 will be mostly the same as in 2015. Business models and profitability risks are ranked the highest. Other risks, the importance of which varies across SSM countries, are also present, namely credit risk and heightened levels of non-performing loans, search for yield, conduct and governance risk, sovereign risk, geopolitical risk and growing vulnerabilities in emerging economies, IT and cybercrime risk, and the banks' ability to meet upcoming regulatory capital requirements.

In 2016, the SSM will pay particular attention to the following aspects:

- business models and profitability: building on 2015 analyses, the SSM launched a thematic review of the banks' profitability drivers. In this context, the ECB will, in particular, analyse whether profitability is achieved through a weakening of credit standards, greater reliance on short-term funding or an increase in risk exposures;
- credit risk, two elements of which deserve heightened supervisory attention: (i) the deterioration in the credit quality of loans to corporates and/or households in several SSM countries hit hard by the crisis, as well as

in credit standards, and (ii) exposure concentrations in areas such as real estate. The SSM will conduct, in addition, a thematic review of the implementation of "IFRS 9 - Financial Instruments" (International Financial Reporting Standards) in order to identify the potential impact of this accounting standard on the banks' provisioning practices;

- capital adequacy, and more particularly the composition and quality of the banks' capital: banks are required to monitor the quality and consistency of their ICAAPs, including their internal stress-testing capacities. This will also comprise an examination of the banks' preparedness for new regulatory standards;
- risk governance will be assessed against the background of the current market situation. The market is indeed marked by low profitability and a search-for-yield behaviour, paired with cheap and ample funding provided by central banks. Moreover, the SSM will articulate expectations with regard to data quality. Focus will be on management information which must be able to judge whether business decisions entail risk levels that are in line with the bank's defined risk appetite standards and limits. In order to reinforce the follow-up actions to the SSM's thematic review of risk governance and risk appetite, the SSM will repeat a thematic review in 2016 on (i) the banks' compliance with the Basel Committee on Banking Supervision's principles for effective risk data aggregation and risk reporting, and (ii) IT risks which could have an impact on data quality and security;
- sound management of liquidity risks: the SSM's 2015 SREP revealed indeed that a number of banks do not yet fully meet supervisory expectations regarding the reliability of ILAAP.

1.2.8. Indirect supervision of less significant banks

The CSSF is actively involved in the indirect supervision of less significant institutions exercised by the ECB, which mainly consists in the day-to-day cooperation between the ECB and the national competent authorities, as well as project-based initiatives focussed on the development of joint supervisory standards and methodologies.

The application of high supervisory standards to less significant banks through the SSM is one of the primary goals of indirect supervision. These standards are developed jointly by the ECB and the national competent authorities. In 2015, joint supervisory standards were developed relating to the supervisory planning process which allows prioritising, planning and monitoring of the execution of key supervisory activities for less significant institutions, as well as relating to recovery planning taking into account the provisions of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and finally, relating to investment firms, and institutional protection schemes (IPS).

In 2015, the work on joint supervisory methodologies aimed mainly at fine-tuning the prioritisation framework for the classification of less significant banks into low, medium and high priority based on their intrinsic riskiness and their potential impact on the domestic financial system. Another important strand of work relates to the development of a common methodology for the risk assessment system (RAS) for less significant institutions. The RAS constitutes a key element of the SREP carried out by the national competent authorities.

1.2.9. The macroprudential dimension of prudential supervision

The macroprudential powers of the ECB and how they are exercised are described in point 3 of this chapter.

1.3. European Banking Authority - EBA

The EBA was created by Regulation (EU) No 1093/2010 of 24 November 2010 (EBA Regulation) as part of the framework for the establishment of the European System of Financial Supervision (ESFS) and has been operational since 1 January 2011. The EBA is chaired by Mr Andrea Enria and the function of Executive Director is performed by Mr Adam Farkas.

Ms Christiane Campill, head of department, represents the CSSF as a voting member at the EBA Board of Supervisors. The Board of Supervisors is the main decision-making body of the EBA. It takes all policy decisions of the EBA, such as adopting draft technical standards, guidelines, opinions, work programmes and reports.

In 2015, the EBA dealt with a steady workload due to the numerous mandates arising from sectoral legislation, including, in particular, Directive 2014/59/EU of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms (BRRD), the recast of Directive 2014/49/EU of 16 April 2014 on deposit guarantee schemes (DGSG), as well as Directive 2014/17/EU of 4 February 2014 on credit agreements for consumers relating to residential immovable property. The EBA also handled a significant workload relating to the preparation of a certain number of texts linked to the CRD IV/CRR framework and Regulation (EU) No 537/2014 on specific requirements regarding statutory audit of public-interest entities.

Indeed, the main focus of the EBA's regulatory work is contributing to the drawing-up of a Single Rulebook in banking. The Single Rulebook provides a single set of harmonised prudential rules for financial institutions throughout the EU, helping create a level playing field and providing high protection to depositors, investors and consumers.

In this respect, the EBA plays a crucial role in the technical implementation and application of the CRD IV/CRR framework, as it is mandated to prepare nearly 250 deliverables, with many of them due in 2015. Most of this work relates to the development of more detailed technical rules, mostly via the development of draft binding regulatory or implementing technical standards that the European Commission can adopt in the form of European regulations, and the publication of guidelines and recommendations on the application of the European regulatory framework for the national supervisory authorities or supervised institutions, as well as the drafting of opinions and reports to the attention of the European Commission.

As regards the BRRD, the EBA focussed in particular on the different proposals for implementing technical standards, as well as on the preparation of guidelines and recommendations it was mandated for under the BRRD and the DGSD. This work was accomplished jointly by the Standing Committee on Regulation and Policy (SCRePol) and the Resolution Committee (ResCo).

Moreover, the EBA plays a mediation role between the national authorities for cross-border groups and contributes to enhancing international coordination in relation to supervision as it is the point of contact and coordinator for relationships between the EU and third countries.

In 2015, the CSSF participated in the work of the Board of Supervisors of the EBA, the four permanent committees (SCRePol, SCOP, SCARA and SCConFin), the newly created Resolution Committee (ResCo) and the Review Panel. The CSSF also participated in a significant number of sub-working groups and permanent networks, as well as in ad hoc task forces.

It should be noted that the EBA continuously feeds the interactive online tool developed in 2014, which gives a concrete overview of the Single Rulebook by providing a compendium of CRD IV, the CRR and, eventually, the BRRD and the corresponding delegated regulations, guidelines and standards issued by the EBA, as well as the related Q&As.

1.3.1. Standing Committee on Regulation and Policy (SCRePol)

The main purpose of SCRePol is to assist and advise the EBA on regulations relating to banks and investment firms[1], payment services, electronic money institutions, capital requirements, early intervention and banking resolution, crisis management and deposit guarantee schemes as well as in relation to corporate governance.

In 2015, the EBA complemented its operating structure with the creation of:

- the Project Team on Investment Firms (PTIF) which carries out a horizontal study regarding the appropriateness of the current regulations applying to investment firms under CRD IV and the CRR;
- the Task Force on Supervisory Disclosure and Information (SG SDI) whose aim is to ensure the quality and comprehensiveness of the information transmitted by the competent authorities to the EBA for the purposes of supervisory disclosure, on the one hand, and of the notifications to be made by the competent authorities based on Level 1 or 2 European texts, on the other hand;
- the Task Force on Prudential Consolidation (TFPC) which deals with the appropriate consolidation methods in the context of consolidated prudential supervision (Article 18 of the CRR), in order to prepare draft technical

[1] I.e. investment firms under the scope of the CRR.

standards in accordance with paragraph 7 of the article in question.

SCRePol prepared certain texts in accordance with the implementation of the DGSD, including notably:

- Guidelines on methods for calculating contributions to deposit guarantee schemes (EBA/GL/2015/10); and
- Guidelines on payment commitments on deposit guarantee schemes (EBA/GL/2015/09).

Besides the work dealing with the BRRD (and the DGSD), SCRePol and its subgroups contributed, in the framework of the drawing-up of the Single Rulebook, to the preparation of an important number of texts, among which:

- Guidelines on sound remuneration policies (Articles 74(3) and 75(2) of CRD IV and EBA/GL/2015/22);
- Guidelines on exposures to shadow banking entities (Article 395(2) of the CRR and EBA/GL/2015/20);
- Guidelines on passport notifications for credit intermediaries under the Mortgage Credit Directive (EBA/GL/2015/19);
- Guidelines on arrears and foreclosure under the Mortgage Credit Directive (EBA/GL/2015/12);
- Guidelines on creditworthiness assessment under the Mortgage Credit Directive (EBA/GL/2015/11);
- Final draft Implementing Technical Standards on prudential requirements for Regulation (EU) No 909/2014 of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories;
- Final draft Implementing Technical Standards on assessment methodologies for the use of Advanced Measurement Approaches (AMAs) under the CRR (Article 312(4)(a) of the CRR).

These final draft technical standards were sent to the European Commission for official adoption in the form of European Commission regulations.

In addition to the work on technical standards and guidelines, SCRePol and its subgroups developed a range of reports, studies and opinions, either under mandates given to the EBA through European legislative texts or by the European Commission, or on its own initiative. The published reports and opinions are, among others:

- the opinion on the application of proportionality recommending exemptions to the remuneration policy principles under CRD IV;
- the opinion on synthetic securitisation for small and medium-sized enterprises (SME), developing the EBA's conclusions as regards the extension of the prudential treatment granted to simple, standardised and transparent securitisations (STS) to institutions that originate and retain certain SME balance sheet synthetic securitisation positions;
- the report on the impact assessment and calibration of the Net Stable Funding Ratio (NSFR);
- the recommendations for a sound prudential regime for investment firms;
- two reports on the consistency of risk-weighted assets across large EU institutions for large corporate, sovereign and institutions' IRB portfolios (low default portfolios);
- the updated report on the monitoring of Additional Tier 1 instruments;
- the opinion on the maximum distributable amounts according to Article 14 of CRD IV.

The following topics have also been covered in 2015 by SCRePol and its subgroups.

• Securitisation

In the first half-year of 2015, the Subgroup on Securitisation and Covered Bonds (SGS&CB) worked on the simple, transparent and standardised securitisations (STS). These securitisations are a tool used in the framework of the Capital Markets Union aiming to relaunch the European securitisation market which has been sagging since the last financial crisis. Indeed, the market has been greatly impacted since 2008 and now represents only a fraction of what it was before 2008. Securitisation is a good means to raise corporate funding resources, and in particular those of SMEs, as it allows transferring corporate debt to the capital markets. It is therefore important to promote high-quality securitisations likely to increase the funding of the real economy while assuring continued financial stability.

The STS securitisation framework must allow the emergence of a new asset class freed from the stigmata of the financial crisis. With a low-risk profile, great simplicity, advanced standardisation and complete transparency, STS securitisations seek to regain investor confidence. The new measurement models for risk weighting applicable to these investments were calibrated to adapt positively to the STS criteria. The report on qualifying securitisation was published by the EBA on 7 July 2015. In the second half of 2015, the SGS&CB started discussing the definition of an ad hoc framework for synthetic STS securitisations. On 18 December 2015, the EBA published a report summarising the findings of its analysis.

• Market infrastructures

In 2015, the Task Force on Market Infrastructures (TFMI) prepared draft technical standards relating to Regulation (EU) No 909/2014 of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories (CSDs). These technical standards cover aspects relating to capital requirements and capital surcharge that apply to all CSDs (with or without banking authorisation), as well as those relating to monitoring and management of risks linked to intra-day credit and intra-day liquidity (which only concern CSDs with banking authorisation). The EBA submitted the final draft technical standards to the European Commission at the end of 2015.

• Own funds

The Subgroup on Own Funds (SGOF) dedicated its work to the determination of criteria for the recognition of Additional Tier 1 (AT1) and Tier 2 (T2) own funds under the CRR. The SGOF also drafted a first report on the best practices for these instruments. In light of the best practices developed, it started monitoring the general conditions of instruments issued under the CRR.

• Remuneration policies

As regards remuneration, 2015 was marked by the publication of different reports and opinions of the Subgroup on Governance and Remuneration (SGGR) and crowned by the publication of "Guidelines on sound remuneration policies".

Thus, on 7 September 2015, the SGGR published a report combining the benchmarking of remuneration practices across the EU and aggregated data on remuneration of EU financial institutions' staff who received, in total, EUR 1,000,000 or more in 2013. The analysis focussed on the identification of material risk takers, on the correct application of deferral arrangements on variable remuneration and on the pay-out in financial instruments, as well as on the use of specific remuneration elements, such as guaranteed variable remuneration and severance payments. The report shows that the number of high earners has slightly decreased since 2012 and that the ratio between the variable and fixed remuneration paid to identified staff decreased further in 2013. This report is part of the EBA's work on the financial institutions' staff remuneration policies aimed at ensuring prudent and sustainable risk-taking in the EU banking sector.

On 12 November 2015, the EBA published a report benchmarking the institutions' remuneration practices concerning the use of the possibility to increase the maximum ratio between variable and fixed remuneration up to 200%, with the shareholders' approval and if the financial situation of the institution so allows. The report shows that nearly all Member States have allowed for the possibility to increase the ratio to 200% but only institutions of 15 Member States have actually made use of this possibility, including a small number of Luxembourg financial institutions.

On 12 November 2015, the EBA also published a follow-up report on the actions taken following the publication of its "Opinion on the use of allowances" in October 2014. The report concluded that the competent authorities have taken all the necessary measures to ensure that those institutions using the allowances adjust their remuneration policies in line with the criteria set out in the Opinion.

On 21 December 2015, the EBA published the final "Guidelines on sound remuneration policies" and the "Opinion on the application of proportionality". These guidelines define, more particularly, the governance process for implementing sound remuneration policies across the EU and provide guidance on all other remuneration principles set out in CRD IV. By specifying the criteria for mapping all remuneration components into either fixed or variable pay, the guidelines ensure compliance with the bonus cap introduced by CRD IV. Moreover, they complement the "Opinion on the use of allowances" published by the EBA in October 2014. The guidelines will enter into force on 1 January 2017.

In its "Opinion on the application of proportionality", the EBA observed a diversity regarding the application of proportionality across Member States. The EBA thus considers that legislative changes should be made to CRD IV in order to clarify the principle of proportionality and ensure that it is applied consistently across the EU.

• Governance

As from 2015, the SGGR focussed on the preparation of guidelines relating to governance it is required to draw up under Article 91(12) of CRD IV. The subgroup also continued updating guidelines on internal governance in order to take into account the new CRD IV requirements.

Moreover, the subgroup is currently drafting guidelines that specify the different notions (commitment of time; adequate collective knowledge; skills and experience; honesty, integrity, independence of mind; adequate human and financial resources for initiation and training; diversity) that members of the management body must have under the fit and proper requirements.

Finally, information on diversity policy as well as on time commitment and resources for training of the management body were collected from a sample of financial institutions in Luxembourg. This information is being assessed and compared at European level and will be published in a report in 2016.

1.3.2. Standing Committee on Oversight and Practices (SCOP)

The SCOP assists and advises the EBA in the following areas:

- permanent risk assessment in the banking system, including development of instruments in this respect;
- promotion of cooperation among authorities, including the strengthening of colleges and common assessments and decisions;
- reinforced convergence of supervisory practices;
- collection of information on the institutions and national authorities;
- follow-up on recommendations and warnings of the European Systemic Risk Board (ESRB).

The main topics dealt with by the SCOP in 2015 were the following:

- risks and vulnerabilities in the European banking sector in general;
- supervision of IT risks and cybersecurity in particular;
- prudential approaches relating to conduct risk;
- macroprudential regulatory practices;
- the EBA's guidelines on SREP;
- review of the guidelines on stress testing;
- the EBA's report on contingent convertible bonds (CoCos);
- monitoring the progress of certain draft technical standards, including notification requirements and resolution colleges.

As from 2016, the SCOP will be used even more as a platform to start substantive discussions and exchange experience among competent authorities.

1.3.3. Standing Committee on Accounting, Reporting and Auditing (SCARA)

The SCARA assists and advises the EBA by fulfilling its mandate in accordance with Articles 1 to 8 of the EBA Regulation and contributes to the work of the EBA in the following areas which are covered by dedicated subgroups:

- accounting: monitor, assess and comment on any development in relation to accountancy and, in particular, the development in the international accounting standards and ensure at the same time an interaction with the EFRAG; contribute to the development of supervisory guidelines where the accounting standards may impact both the supervisory and the prudential frameworks (in particular the calculation of capital requirements);
- reporting: develop and update prudential reporting schemes and develop draft implementing technical standards pursuant to the CRD IV/CRR framework;
- audit: monitor, assess and comment on the developments at EU and international level as regards audit; take on any task of the EBA in relation to audit regulation;
- transparency: assess and analyse the information published by the banks, in particular those relating to Pillar 3, so as to promote a common supervisory culture and a consistent application; contribute to the development of supervisory guidance relating to Pillar 3 in order to facilitate common application and review.

In 2015, the SCARA subgroups worked on the following.

• Accounting

In the area of accounting, the subgroup prepared comment letters of the EBA on the draft accounting standards of the International Accounting Standards Board (IASB). It also contributed to drawing up the EBA's comment letter to the EFRAG Board on the endorsement of IFRS 9 "Financial instruments" published on 26 June 2015. Moreover, it should be noted that the subgroup is regularly consulted to deal with accounting issues that arise in the context of the other EBA subgroups' work.

• Reporting

As regards prudential reporting, the subgroup contributed to the consultation paper (EBA/CP/2015/23) published by the EBA on 8 December 2015 in order to adapt financial reporting following the changes in IFRS 9. It also answered questions in relation to the prudential reporting templates submitted to the EBA via the Q&A tool (cf. point 1.3.7. below) and contributed to the update of the applicable validation rules for the transmission of prudential information.

• Audit

The subgroup prepared draft EBA guidelines for effective communication between, on the one hand, the competent authorities supervising credit institutions and, on the other hand, the statutory auditors of these credit institutions. These guidelines were published on 21 October 2015 for public consultation until 21 January 2016.

• Transparency

The subgroup carried out its annual assessment of disclosures by a sample of credit institutions. The assessment focussed on the new disclosure obligations under Part Eight of the CRR. The assessment report was published by the EBA on 27 November 2015.

1.3.4. Standing Committee on Consumer Protection and Financial Innovation (SCCONFIN)

The main task of the SCCONFIN is to assist, advise and support the work of the EBA in relation to consumer protection.

As far as the work organisation is concerned, the SCCONFIN has set up two subgroups, namely the Subgroup on Consumer Protection (SGCP) and the Subgroup on Innovative Products (SGIP). The CSSF is a member of the SCCONFIN and is represented in the two aforementioned subgroups.

• Subgroup on Consumer Protection (SGCP)

The mission of the SGCP is to identify subjects relating to innovative banking activities or products likely to cause damage to consumers. The SCGP aims at setting up a coordinated system of prudential rules among its members to ensure efficient consumer protection across the EU.

In 2015, the SGCP's work covered mortgage loans and more particularly the determination of the EBA's reference rate (cf. Annex II to Directive 2014/17/EU of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010).

In December 2015, the SGCP launched a public consultation for the drawing-up of "Guidelines on remuneration policies and practices related to the sale and provision of retail banking products and services". These guidelines aim at improving the fair treatment of consumers by the professionals of the financial sector through impacting on their remuneration policies and practices.

In 2015, the SGCP created the Consumer Trends Workstream to draw up the annual Consumer Trends Report. The SGCP also reflected on the best means to implement the requirement, laid down in Article 9 of the EBA Regulation, to collect, analyse and report on consumer trends.

• Subgroup on Innovative Products (SGIP)

The purpose of the SGIP is to identify the risks for banks and consumers linked to innovative banking products and to help developing a coordinated system of prudential rules aiming to warn banks across Member States. Based on the work of this group, the EBA published the following documents in 2015:

- Opinion on lending-based crowdfunding on 26 February 2015;
- Discussion paper on automation in financial advice on 4 December 2015.

In 2015, the SGIP members set up working groups covering the following topics:

- innovative means of payment: the working group identified the risks relating to these new means of payment and the diverse applicable regulations;
- cloud computing: given the increasing use of this outsourcing, the working group identified its benefits and risks;
- virtual money: the working group analysed the potential regulatory needs and developments in EU Member States;
- loan originating funds: the working group studied this new activity and its inherent risks;
- the commercial use of consumers' data: considering the rising interest of financial institutions for consumers' personal data, the working group analysed the various ways credit institutions may use this data, as well as the specific associated risks.

1.3.5. Review Panel

The Review Panel assists the EBA in its task to ensure a consistent and harmonised implementation of EU legislation in the Member States. To this end, peer reviews, explicitly provided for in the EBA Regulation, are conducted for specific topics, determined annually, on the basis of an initial self-assessment by the competent authorities as regards compliance with and application of EU legislation and, in particular, the EBA guidelines at national level. The purpose of these peer reviews is to enhance convergence of prudential approaches and consistency of supervisory results. Based on the work of the Review Panel, the EBA may issue guidelines and recommendations and publish the best practices highlighted by the outcome of the work.

In 2015, the status of the different peer reviews was as follows.

The EBA's "Report on the peer review of the Guidelines on the assessment of the suitability of members of the management body and key function holders (EBA/GL/2012/06)" was published on 16 June 2015. Competent authorities, including Luxembourg, largely or even fully apply the aforementioned guidelines. However, the report states some significant divergences between supervisory practices such as the criteria used for suitability assessments of candidates for key functions and the cooperation between competent authorities with respect to exchange of information, in particular on the results of these processes.

Another peer review relating to the implementing technical standard on supervisory reporting started at the end of 2015.

In the future, these peer reviews will become increasingly important given the convergence objective of the regulatory practices aiming to ensure a level playing field at European level and for which the EBA stands.

1.3.6. Resolution Committee (ResCo)

The Resolution Committee (ResCo) is a permanent internal committee of the EBA, set up in January 2015, for the purpose of taking decisions and fulfilling tasks conferred on the EBA and the national resolution authorities under the BRRD. ResCo is composed of the heads of the EU National Resolution Authorities (voting members) and of the heads of the National Resolution Authorities of the EEA countries and of representatives of the Single Resolution Board, the European Systemic Risk Board, ESMA and EIOPA (observers). ResCo is chaired by Mr Dominique Laboureix, member of the executive session of the Single Resolution Board. In 2015, the CSSF participated in ResCo as an observer. Following the entry into force of the law of 18 December 2015 on the failure of credit institutions and certain investment firms, it can now fully take on its role as a voting member.

ResCo held four meetings in 2015. In the context of the BRRD, ResCo notably focussed on the preparation of draft binding regulatory and implementing technical standards and technical advice that the EBA must provide to the European Commission according to the BRRD, as well as on the drawing-up of guidelines.

In the context of the BRRD, the following documents have been prepared:

- Final draft Implementing Technical Standards on minimum requirement for own funds and eligible liabilities (MREL);
- Final draft Implementing Technical Standards on the content of the business reorganisation plans;
- Final draft Implementing Technical Standards on group financial support agreements;
- Final draft Implementing Technical Standards on independent valuers;
- Final draft Implementing Technical Standards on detailed records of financial contracts;
- Final draft Implementing Technical Standards on the operational functioning of the resolution colleges;
- Guidelines specifying the conditions for group financial support (EBA/GL/2015/17);
- Guidelines on simplified obligations (EBA/GL/2015/16);
- Guidelines on the minimum criteria to be fulfilled by business reorganisation plans (EBA/GL/2015/21);
- Guidelines on the interpretation of the different circumstances when an institution shall be considered as failing or likely to fail (EBA/GL/2015/07);
- Guidelines on the minimum list of services or facilities that are necessary to enable a recipient to operate a business transferred to it (EBA/GL/2015/06);
- Guidelines on the determination of when the liquidation of assets or liabilities under normal solvency proceedings could have an adverse effect on one or more financial markets (EBA/GL/2015/05);
- Guidelines on factual circumstances amounting to a material threat and on the elements related to the effectiveness of the sale of business tool (EBA/GL/2015/04); and
- Guidelines on triggers for use of early intervention measures (EBA/GL/2015/03).

In 2015, the CSSF took part in the work of ResCo and the following two working groups.

• Subgroup on Crisis Management

The Subgroup on Crisis Management (SGCM), which, originally, was a subgroup of the Standing Committee on Regulation and Policy (SCRePol), now reports to SCRePol and ResCo, since the creation of the latter.

In 2015, the SGCM met on five occasions. These meetings were mostly dedicated to discussing the opinions received in the framework of the public consultation and the finalisation of draft technical standards and guidelines in the context of the BRRD and Directive 2014/49/EU on deposit guarantee schemes.

It should be noted that the EBA Management Board had considered the need to draw up, on its own initiative, guidelines on stress tests of deposit guarantee schemes and on cooperation agreements between schemes. However, the draft guidelines have not been discussed within the SGCM, but within the respective parent committees (SCRePol and ResCo).

• Task Force on Resolution Colleges

In accordance with Article 88(7) of the BRRD, the EBA is in charge of developing draft regulatory technical standards (RTS) in order to specify the operational functioning of the resolution colleges. In this context, the Task Force finalised, in 2015, its work on draft RTS, which have been approved by ResCo and by the Board of Supervisors of the EBA and which cover, among others:

- operational functioning of the resolution colleges;
- the different stages of drawing up resolution plans and adopting common decisions;
- resolution of international groups within the terms of Articles 91 and 92 of the BRRD.

1.3.7. Working groups reporting directly to the Board of Supervisors

• Network on Single Rulebook Q&As

The CSSF actively participates in the EBA's Q&A process which feeds the Interactive Single Rulebook[2] of the EBA and answers questions of any party concerned as regards CRD IV/CRR and, since 2015, the BRRD. More specifically, the CSSF helped drawing up draft answers to questions. The answers are then validated by the Standing Committee on Regulation and Policy (SCRePol), after review by SCRePol's subgroups competent for these Q&As[3]. Where the SCRePol members agree with the proposed answer, the Q&A is published on the EBA's website. In case they disagree, the question is submitted to the Board of Supervisors for an opinion. If the question raises a point of interpretation of CRD IV/CRR, it falls within the remit of the European Commission and the Q&A is submitted to the latter. The answer proposed by the European Commission is then submitted to the members of the Network on Single Rulebook Q&As for a fatal flaw review, i.e. a review where only material errors are identified. If no material error is detected, the Q&A is published on the EBA's website.

In 2015, the CSSF answered more than 200 Q&As of the EBA concerning CRD IV/CRR.

• Task Force on Macroprudential Matters (TFMM)

Since 2014, the CSSF is a member of the network of experts in macroprudential matters within the TFMM and closely follows the TFMM's work. The CSSF takes part in the group's discussions on macroprudential measures taken by the Member States and analyses any impacts and consequences.

At the beginning of 2015, the TFMM discussed the impact of the macroprudential measures announced and/or transposed by certain Member States with representatives of banks and the industry. The contributions of the industry have highlighted that a transparent and open communication is required and that the new regime is still a challenge, mainly for small and medium-sized banks.

Moreover, the TFMM still plays its role as information hub for its members with respect to macroprudential

[2] https://www.eba.europa.eu/regulation-and-policy/single-rulebook/interactive-single-rulebook.

[3] Typically, a Q&A relating to liquidity of credit institutions will be reviewed by the Subgroup on Liquidity.

measures. To this end, it centralises and communicates to its members the relevant information such as, for instance, information relating to notifications concerning macroprudential measures taken in 2015 prescribed by EU law. In this context, it also expedited several written procedures.

• Network on Equivalence (NoE)

One of the purposes of the Network on Equivalence is to continue the work initiated in 2014 by the European Commission relating to the equivalence of supervisory regimes under Article 114(7) of the CRR and which led to the publication of the Commission Implementing Decision on the equivalence of the supervisory and regulatory requirements of certain third countries of 12 December 2014. An equivalence decision for a third country allows supervised entities to apply a more favourable supervisory treatment to exposures located in these countries for the measurement of credit risk.

In January 2016, the EBA sent a recommendation to the European Commission relating to the result of the assessment of eight third countries that have been analysed. Moreover, the NoE updated the guidelines of its predecessor, the CEBS, as regards the equivalence of confidentiality regimes of third countries in the context of Article 55 of CRD IV and issued Recommendation 2015/01 concerning 12 third countries. The CSSF participated actively in these assessments.

• Task Force on Payment Services (TFPS)

The TFPS was set up at the end of 2014 with the following mandate: (i) implement the mandates set out in Directive (EU) 2015/2366 on payment services for the EBA; (ii) identify the risks, arising from the innovative payment methods, which are not yet dealt with in directives; (iii) develop guidelines on internet payment security, and (iv) issue mandates set out in the new regulation on interchange fees for the EBA.

In 2015, a working group of the TFPS focussed more specifically on the European passport. The purpose of this working group is to implement all the mandates entrusted to the EBA under Directive (EU) 2015/2366 on payment services as regards European passports, i.e. the freedom to provide services and the freedom of establishment.

1.3.8. EBA 2016 Work Programme

The EBA 2016 Work Programme[4] concentrates on the following.

The EBA's analyses and assessments will remain centred on identifying, analysing and appraising key risks in the banking sector at EU level. The EBA will initiate and coordinate the EU-wide stress test 2016 and provide relevant competent authorities with common scenarios, methodologies and benchmarking tools to be used to ensure a smooth process and reliable results.

As regards consumer protection, financial innovation and payments, the EBA will focus on the mandates conferred on it under the Payment Services Directive (PSD2), the Regulation on interchange fees for card-based payment transactions and the Directive on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features, including a standardised terminology for payment account services and relating data sheets.

The EBA will continue to work on supervisory convergence, including at the level of supervisory and resolution colleges, on training of supervisors and on peer reviews. Moreover, it will assist supervisors in the practical application of the new BRRD framework for recovery planning and early intervention.

As part of its broader mission consisting in addressing model risks, the EBA will assist the competent authorities in their assessment of the outcome of banks' internal models. In order to monitor any material differences in risk-weighted assets, the EBA will develop EU-wide benchmarks.

[4] The EBA 2016 Work Programme is available at http://www.eba.europa.eu/about-us/work-programme/current-work-programme.

1.4. Single Resolution Board (SRB)

The Single Resolution Mechanism (SRM) ensures that, if a bank subject to the Single Supervisory Mechanism (SSM) or a cross-border banking group as defined in Article 3(1), point 24, of Regulation (EU) No 806/2014, faces serious difficulties despite the enhanced supervision of the ECB or the national supervisory authority, its resolution will be managed efficiently with minimum costs to taxpayers and national economy.

In this context, a Single Resolution Board (SRB) and a Single Resolution Fund (SRF) were created under Regulation (EU) No 806/2014.

As the European resolution authority of the Banking Union, the SRB works closely with the national resolution authorities of the euro-area Member States (participating Member States). Its mission is to prepare and implement the resolution of banks which are failing or likely to fail. The SRF was established under the control of the SRB to ensure the availability of funding in case of restructuring of an institution under the competence of the SRB.

The SRB is operational since 1 January 2015 and sits in two configurations:

(a) executive session, involving the Chair (or Vice-Chair) and four other permanent members, namely:

- Chair: Ms Elke König (Germany);
- Vice-Chair: Mr Timo Löyttyniemi (Finland), in the absence of the Chair;
- Director of Strategy and Policy Coordination: Mr Mauro Grande (Italy);
- Directors of Resolution Planning and Decisions: Mr Antonio Carrascosa (Spain), Ms Joanne Kellermann (Netherlands) and Mr Dominique Laboureix (France);

and representatives of the competent resolution authorities of all the participating Member States where the troubled bank is based;

(b) plenary session, involving the Chair, the other four permanent members and the representatives of the resolution authorities of all the participating Member States. Mr Romain Strock, Resolution Director, represents the CSSF in the plenary sessions.

The Chair, the Vice-Chair and the other permanent members of the SRB are nominated for a limited time: the Chair for an initial three-year mandate, renewable once for five years, and the Vice-Chair and the other permanent members for a non-renewable five-year mandate.

In its start-up phase and given the limitation of powers in 2015, the SRB notably focussed on the preparation, according to priority criteria, of drafting transitional resolution plans for the most significant banks subject to the SRM. Since 1 January 2016, the SRM has all the attributions and competences conferred on it under Regulation (EU) No 806/2014.

The SRM has set up several ad hoc task forces for the drafting of certain key documents defining the functioning of the SRM.

1.4.1. Committee on Cooperation between the SRB and the NRAs

The SRM implies a close cooperation between the SRB and the national resolution authorities (NRAs). Pursuant to Article 31(1) of Regulation (EU) No 806/2014, the Committee on Cooperation drew up a draft framework agreement covering the organisation and functioning of the Internal Resolution Teams established in accordance with Article 83 of the aforementioned regulation, as well as the organisation of the tasks and the exchange of information between the SRM and the NRAs. Under the aegis of the Committee on Cooperation, the Training Network is in charge of organising common training.

1.4.2. Committee on Resolution Planning

This committee drafted an exhaustive resolution planning manual based on Regulation (EU) No 806/2014 and the EBA's technical standards, detailing, among other things, the qualitative and quantitative information required for the drafting of resolution plans as well as a matrix allowing assessing the planning state for every institution concerned.

1.4.3. Committee on Crisis Management and Resolution

This committee drew up a manual on crisis management and resolution describing the stages of the procedure to be followed when managing a banking crisis and covering, among other things, the key stages of resolution, actions, possible measures, decision-making process, relations between the different players concerned, implementation of resolution decisions and public communication.

1.4.4. Committee on Contributions

The task of the Committee on Contributions is establishing efficient and harmonised processes for the calculation and payment of ex ante contributions to the SRF.

In 2015, the committee mainly established general guidelines and responsibilities for contributions in order to ensure maximum harmonisation of contributions calculated by the national resolution authorities of the euro area, in particular for the ex ante contributions to be paid for the year 2015. The committee also defined the different calculation and ex ante contribution collection processes for the year 2016.

1.4.5. SRB ICT Workshop with the National Resolution Authorities

In 2015, IT representatives of the resolution authorities met in Brussels for two meetings concerning the future IT infrastructure of the SRM. The objective was informing the authorities on the implementation of the SRM applications and encouraging them to set up a plan for the necessary infrastructure at national level. As regards the CSSF, the necessary IT tools and relevant access rights are being installed.

2. SUPERVISION OF FINANCIAL MARKETS

2.1. European Securities and Markets Authority - ESMA

ESMA was established by Regulation (EU) No 1095/2010 of 24 November 2010 and has been operational since 1 January 2011. ESMA is chaired by Mr Steven Maijoor and the function of Executive Director is performed by Ms Verena Ross. In 2015, Mr Jean Guill, Director General, represented the CSSF in the Board of Supervisors.

The Securities and Markets Stakeholder Group, which is composed of 30 stakeholders appointed in a personal capacity, including one Luxembourg representative, aims to facilitate the consultation with stakeholders in areas relevant to ESMA's tasks. The group is also consulted on matters covered by regulatory technical standards.

In 2015, the CSSF participated as a member in the work of ESMA and its permanent standing committees and task forces/working groups (permanent or ad hoc).

All the publications of ESMA are available on the website www.esma.europa.eu. For 2015, the following topics should be noted in relation to the activities of ESMA, its working groups and its task forces.

2.1.1. Supervisory Convergence Standing Committee (SCSC)

The Review Panel, chaired by Mr Jean Guill until September 2015, and whose mission was to assist ESMA in ensuring consistent and harmonised application of EU law in the Member States, was transformed into the Supervisory Convergence Standing Committee (SCSC) in the course of the year. This transformation took place in order to allow ESMA to fulfil its mission pursuant to Article 29 of its founding regulation, to build a common culture and to foster supervisory convergence and consistency in the application of EU law, and in line with the ESMA 2016-2020 Strategic Orientation.

ESMA decided to prioritise convergence of supervisory approaches for the years to come and will publish a dedicated work programme.

In 2015, a peer review was carried out, aiming at assessing how competent authorities apply the exemption for market making activities provided for in Article 17 of Regulation (EU) No 236/2012 of 14 March 2012 on short selling and certain aspects of credit default swaps. The report was published on 5 January 2016.

The SCSC also carried out a peer review to verify compliance of the prospectus approval procedure of competent authorities with the Prospectus Directive. The report will be finalised in the first half of 2016.

The purpose of the MiFID suitability peer review was to analyse national competent authorities' approach regarding compliance with the MiFID suitability requirements and to identify the areas that could benefit from greater supervisory convergence. The report is expected to be released in 2016.

ESMA conducted a follow-up peer review on supervisory practices against market abuse, published initially in June 2013, in order to verify which measures have been put in place by competent authorities to address the inconsistencies identified in the course of the initial peer review. The result was published on 22 December 2015.

In the framework of the peer review on money market funds of 2013, a follow-up peer review was conducted with the competent authorities concerned in 2015. The report is expected to be published in early 2016.

In 2015, a working group was created to draft a general proposal on the possible engagement of stakeholders in peer reviews. A stakeholder means any authority other than the competent authority concerned by the peer review and any entity with a supervisory mission, as well as market participants.

Finally, two reports on peer reviews conducted in 2014 were published in 2015, namely the "Report on best execution supervisory practices under MiFID" on 25 February 2015, and the "Report on the ESMA guidelines on systems and controls in an automated trading environment" on 18 March 2015.

2.1.2. Market Integrity Standing Committee (MISC)

The MISC notably contributes to ESMA's work on issues relating to market integrity. It facilitates enhanced cooperation between national competent authorities as regards investigations, coordination of supervision and enforcement actions in the fields of market abuse and short selling. Moreover, the MISC helps ESMA drafting the single rulebook on market abuse, short selling and benchmarks. Through the enhancement of supervisory convergence and the exchange of supervisory practices, the MISC also promotes the establishment of a common culture on market integrity supervision and enforcement.

• Market abuse

The year 2015 was marked by the preparation of the draft delegated acts and technical standards relating to the new Regulation (EU) No 596/2014 of 16 April 2014 on market abuse (Market Abuse Regulation) which applies as from 3 July 2016. The CSSF participated actively in the work of the MISC and of its working groups. In this context, on 3 February 2015, ESMA submitted to the European Commission its technical advice (ref.: ESMA/2015/224) on delegated acts relating to the Market Abuse Regulation (for further detail cf. point 2.1.2. of Chapter II "The European dimension of the supervision of the financial sector" of the CSSF's Annual Report 2014). Based on this technical advice, on 17 December 2015, the European Commission published a delegated regulation supplementing the Market Abuse Regulation as regards an exemption for certain third-country public bodies and central banks, the indicators of market manipulation, the disclosure thresholds, the competent authority for notifications of delays, the permission for trading during closed periods and the types of notifiable managers' transactions. The procedures relating to reporting of infringements are set out in Commission Implementing Directive (EU) 2015/2392 of 17 December 2015 on Regulation (EU) No 596/2014 as regards reporting to competent authorities of actual or potential infringements of that Regulation, published in the Official Journal of the EU on 18 December 2015.

On 28 September 2015, ESMA presented to the European Commission its "Final Report on draft technical standards on the Market Abuse Regulation" (ref.: ESMA/2015/1455) on:

- notification and list of financial instruments;
- conditions for buy-back programmes and stabilisation measures;
- market soundings;

- accepted market practices;
- suspicious transaction and order reporting;
- technical means for public disclosure of inside information and delays;
- format of the insider lists and the format for updating;
- format and template for notification and disclosure of managers' transactions;
- investment recommendations.

On 28 January 2016, ESMA published a consultation paper in view of the adoption of certain guidelines relating to the Market Abuse Regulation and covering:

- the persons receiving market soundings;
- legitimate interests of issuers to delay inside information and situations in which the delay of disclosure of inside information is likely to mislead the public.

The following two documents were published by ESMA in relation to the current market abuse regime:

- an update dated 9 November 2015 of ESMA's "Questions and Answers on the common operation of the Market Abuse Directive" (ref.: ESMA/2015/1635). The update deals with the obligation of the banks concerned to disclose inside information linked to the results of their risk assessment (Pillar 2) and was presented in the CSSF's Press release 15/48;
- a follow-up report on "Peer review on supervisory practices against market abuse" of 22 December 2015 (ref.: ESMA/2015/1905).

• Benchmarks

The proposed regulation of 18 September 2013 on indices used as benchmarks in financial instruments and financial contracts (Benchmark Regulation) was negotiated in trialogue between the European Commission, the Council of the EU and the European Parliament. An agreement was reached on 25 November 2015.

ESMA will be largely involved in the implementation of the (future) Benchmark Regulation, notably through the drafting of technical regulatory standards. To this end, a working group for benchmarks was created in 2015 and attached to the MISC. On 15 February 2016, ESMA published a discussion paper in view of the adoption of the Level 2 texts and the guidelines for the implementation of the (future) Benchmark Regulation.

2.1.3. Corporate Reporting Standing Committee (CRSC)

As high-quality financial statements are important for the smooth operation of the financial markets, ESMA is involved in the process of drawing up financial information standards and cooperates in this respect, inter alia, with the IASB (International Accounting Standards Board) and the EFRAG (European Financial Reporting Advisory Group).

Thus, through its permanent committee, the CRSC, ESMA drew up comment letters on various discussion papers and exposure drafts of the IASB and the EFRAG.

Moreover, through its subgroup, the European Enforcers Coordination Sessions (EECS)[5], the CRSC ensures that the financial information standards are consistently applied in the EU.

In this respect, ESMA took the following initiatives in order to ensure the consistent application of IFRS standards.

• Final Report "ESMA Guidelines on Alternative Performance Measures (APMs)"

On 30 June 2015, ESMA published this report which aims at enhancing the quality, transparency and comparability of information on financial performance of issuers. Examples of APMs that are widely used, but not defined in accounting standards, include EBIT (Earnings Before Interest & Tax) and EBITDA (Earnings Before Interest, Taxes, Depreciation and Amortisation). The principles that issuers should apply when publishing APMs

[5] See also point 5.4. of Chapter XI "Supervision of securities markets".

in their regulated documents (prospectuses, financial reports, market information, etc.) are the following:

- clear definition of the content and calculation of the APM;
- reconciliation of the APM to an item defined by the accounting framework (e.g.: net result for IFRS);
- less or equally prominent presentation of the APM compared to the item defined by the accounting framework;
- explanation of the usefulness of the APM.

These instructions are in line with similar provisions in the United States, Australia and Canada. They must be applied by issuers as from 3 July 2016 and will be monitored by the national competent authorities.

• Opinion on the "Application of the IFRS requirements in relation to the recognition of contributions to Deposit Guarantee Schemes in IFRS accounts"

On 25 September 2015, ESMA delivered an opinion which aims at promoting a consistent accounting treatment by the relevant banking issuers.

• Public Statement "Improving the quality of disclosures in the financial statements"

On 27 October 2015, ESMA published this document which invites issuers to publish clear and concise disclosures which are company-specific and to avoid overload of non-specific and irrelevant information. Auditors and national competent authorities are invited to encourage these best practices.

• Public Statement "European common enforcement priorities for 2015 financial statements"

On 27 October 2015, ESMA published the list of priorities to be taken into account for the review of the financial statements of issuers as at 31 December 2015 by the national competent authorities, in order to promote the consistent application of the IFRS. The priorities are as follows:

- impact of financial market conditions on the financial statements (such as the environment of interest rates, foreign exchange rates, high volatility for commodity prices);
- statement of cash flows and related disclosures;
- fair value measurement of non-financial assets and liabilities in particular.

The work of the CRSC in relation to Directive 2004/109/EC (Transparency Directive) is carried out by the following working groups.

• European Electronic Access Point Task Force

The Transparency Directive as amended by Directive 2013/50/EU (revised Transparency Directive) has mandated ESMA with the task of developing and operating a European electronic access point to the officially appointed mechanisms (OAM) of the Member States in order to facilitate the search for regulated information at EU level by 1 January 2018 at the latest.

The working group started its work at the end of 2013 and is in charge of drawing up regulatory technical standards as provided for by the revised Transparency Directive on the technical requirements relating to the development and operation of this European electronic access point. Following a public consultation, the working group drew up a first draft of these regulatory technical standards and submitted it to the European Commission for comments.

• European Single Electronic Format Task Force

The revised Transparency Directive provides for the preparation of annual financial reports in a single electronic reporting format as from 1 January 2020, provided that a cost-benefit analysis has been undertaken by ESMA.

The working group is in charge of developing draft regulatory technical standards to specify the electronic reporting format, with due reference to current and future technological options. It started its work at the end of 2013 and launched a public consultation in 2015. The results thereof will be analysed in order to reach a common agreement on the regulatory technical standards to be applied by securities issuers.

• Joint Task Force on TD Related Issues

In 2014, the CRSC and the Corporate Financial Standing Committee (CFSC) decided to create a temporary Joint Task Force on TD Related Issues in order to clarify certain issues of common interest. The aim is to promote greater convergence of supervisory practices in relation to areas relevant to the revised Transparency Directive.

In 2015, the Joint Task Force notably updated ESMA's document "Questions and Answers regarding the Transparency Directive", developed a standard form to be used for the notification of the home Member State and worked on the harmonisation of certain information in relation to the population of issuers admitted to trading on European regulated markets. It also developed a common and coordinated approach for national competent authorities concerning cross-border issues relating to the Transparency Directive.

2.1.4. Corporate Finance Standing Committee (CFSC)

The CFSC is in charge of the work relating to Directive 2003/71/EC (Prospectus Directive), some aspects of Directive 2004/109/EC (Transparency Directive) and corporate governance. The following work may be highlighted for the year 2015.

• Prospectus

The CFSC's work on the Prospectus Directive is conducted by a permanent operational working group (OWG) and specific temporary working groups (Task Forces) in which the CSSF participates actively.

For the review of the Prospectus Directive, the European Commission published a consultation paper on 18 February 2015, which aims at seeking views from stakeholders on their experience of this directive. On 21 May 2015, ESMA published its response to the consultation paper, which takes into account the objective of the European Commission which is to review the Prospectus Directive in order to facilitate fund raising for European companies. It should be noted that ESMA advocates reducing the administrative burden for issuers that are already admitted on a regulated market, maintaining the system for determining the home Member State, a more investor-friendly summary, a more flexible incorporation by a reference regime and a sanctions regime more in line with other sectoral directives.

On 1 July 2015, ESMA published its final report concerning several draft regulatory technical standards (RTS) provided for in Directive 2014/51/EU (Omnibus II Directive). These draft standards specify:

- the prospectus approval procedures;
- the information to be incorporated by reference in a prospectus;
- the provisions relating to the publication of a prospectus; and
- the provisions relating to the dissemination of advertisements announcing the intention to offer securities to the public or to admit securities to trading on a regulated market.

On 23 July 2015, ESMA published data relating to the prospectuses approved and passported by the different Member States for the year 2014.

On 15 December 2015, ESMA updated its Q&A document which aims at promoting common approaches between national supervisory authorities, by specifying the following:

- the calculation of the threshold of EUR 75,000,000 provided for in Article 1(2)(j) of the Prospectus Directive, according to which non-equity securities issued in a continuous or repeated manner by credit institutions are excluded from the scope of application of the Prospectus Directive, subject to certain conditions, notably that the total consideration of the offer does not exceed the aforementioned threshold; and

- the information to be disclosed in a prospectus relating to securities that may be converted or written-down in accordance with the provisions of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

Finally, it should be noted that ESMA examined, through peer reviews, the quality and consistency of the approval process of national supervisory authorities. In a first stage, all the authorities had to answer a questionnaire. In a second stage, ESMA performed on-site inspections on the premises of six authorities, including the CSSF. ESMA is expected to publish its conclusions in 2016.

• Transparency

The work of the CFSC in relation to the Transparency Directive is carried out by the following working groups: the Operational Working Group on Transparency Related Issues and the Joint Task Force on TD Related Issues.

The Operational Working Group on Transparency Related Issues, whose objective is to identify and discuss the issues in relation to major holdings, is a permanent group which started its work in November 2014. In cooperation with the Joint Task Force on TD Related Issues, a questionnaire was sent to the different authorities in order to identify their needs regarding the issues identified in relation to major holdings. In this context, ESMA published, on 22 October 2015, new questions and answers related to the changes introduced by the review of the Transparency Directive as well as an amended version of the standard form for the notification of major holdings.

The work of the Joint Task Force on TD Related Issues is described in more detail under point 2.1.3. above.

• Takeover Bids Network (TBN)

The CSSF participated in the discussions of this group composed of representatives of the competent authorities on takeover bids in the Member States, whether they are members of ESMA or not. Exchanges notably concerned the derogations relating to the obligation to launch a takeover bid, as well as recent developments of the European legislation and their potential impact on regulation governing takeover bids.

2.1.5. Investor Protection and Intermediaries Standing Committee (IPISC)

In 2015, following two public consultations, IPISC prepared “Guidelines for the assessment of knowledge and competence” of the staff providing investment advice or information to clients (ref.: ESMA/2015/1886) and “Guidelines on complex debt instruments and structured deposits” (ref.: ESMA/2015/1783). The purpose of the latter is to guide investment firms when providing investment services that only consist of executing or receiving and transmitting client orders.

Moreover, IPISC drafted regulatory technical standards on best execution, for establishing the content of the report to be provided by the trading venues and the specific content of the reports to be produced by the undertakings executing client orders (ref.: ESMA/2015/1464). In addition, implementing technical standards covering the cooperation and exchange of information between authorities, the consultation of a competent authority before granting authorisation, as well as the notification of sanctions, were produced by IPISC (ref.: ESMA/2015/1858).

In the context of supervisory convergence, IPISC started to work on the sale of speculative financial instruments (contracts for difference (CFDs), binary options and rolling spot forex).

2.1.6. Secondary Markets Standing Committee (SMSC)

The SMSC deals with questions relating to the structure, transparency and efficiency of secondary markets for financial instruments, including trading platforms and over-the-counter markets. It contributes to ESMA’s mission by preparing draft regulatory and implementing technical standards, guidelines and advice to the European Commission for any aspect within its remit.

Since the publication of MiFID II/MiFIR in June 2014, one major purpose of which is improving the functioning of financial markets by making them more efficient, resilient and transparent, the SMSC is mainly working on the drafting of regulatory and implementing technical standards as provided for in the two aforementioned texts and falling within its remit.

In 2015, the SMSC met nine times, including twice with its Consultative Working Group, which allowed the SMSC's work to benefit from the added value of the specific professional expertise of the members of this group. The SMSC contributed to the finalisation of three reports sent to the European Commission and covering the main technical standards to prepare for MiFID II and MiFIR:

- the final report of 29 June 2015 (ref.: ESMA/2015/1006) which includes the draft technical standards for investor protection, authorisation of investment firms, freedom to provide services, provision of services and performance of activities by third-country firms following an equivalence decision, as well as cooperation between authorities in these fields;
- the final report of 28 September 2015 (ref.: ESMA/2015/1464) on draft technical standards dealing with, among others, subjects relating to transparency and market microstructure, data publication and access, requirements applying on and to trading venues, commodity derivatives, post-trading transparency and investor protection. The part relating to investor protection concerns, among other things, the organisational requirements applicable to investment firms and trading platforms which explains the contribution of the SMSC to this part, usually falling within the competence of IPISC;
- the final report of 11 December 2015 (ref.: ESMA/2015/1858) on draft technical standards relating to subjects such as cooperation agreements in respect of a trading venue whose operations are of substantial importance in a host Member State, communications regarding the suspension and removal of financial instruments from trading on a market, procedures for the authorisation of data reporting service providers, position reporting and cooperation between authorities in supervisory matters.

One of the most controversial topics discussed within the SMSC was the definition of the notion of liquid market in the context of transparency applicable to instruments other than shares and the criteria that should be taken into account when assessing the existence of a liquid market for these instruments. Finally, the instrument by instrument approach (IBIA) was preferred to the class of financial instruments approach (COFIA) as the latter generated too many incorrect classifications.

Besides the classification into liquid and illiquid instruments, the treatment of package transactions in the framework of transaction transparency, the definition of auxiliary activities compared to main activities, position limits and the definition of the standard market size were also discussed within the SMSC in 2015.

2.1.7. Post-Trading Standing Committee (PTSC)

The role of the PTSC is to discuss post-trading issues, notably relating to EMIR[6] and CSDR[7].

As regards EMIR, the PTSC drafted, in 2015, the consultation paper relating to the clearing obligation of OTC interest rate derivatives denominated in CZK, DKK, HUF, NOK, PLN and SEK, in order to collect input from stakeholders. Following this consultation, the PTSC proposed that OTC interest rate derivatives denominated in NOK, PLN and SEK be subject to the clearing obligation. The final report concerning the relevant draft regulatory technical standards was submitted to the European Commission on 10 November 2015.

Moreover, the final report on draft regulatory technical standards relating to the clearing obligation of credit derivatives was submitted to the European Commission in October 2015.

In addition, the PTSC worked on the consultation paper relating to indirect clearing arrangements under EMIR and MiFIR published on 5 November 2015. The consultation ended on 17 December 2015.

In the context of the discussions on equivalence of the legal and supervisory framework for central counterparties in the United States and in the European Union, the PTSC drafted a consultation paper on the review of Article 26 of Delegated Regulation (EU) No 153/2013 with respect to margin periods of risk for client accounts, published on 14 December 2015 for consultation until 1 February 2016.

In the context of the EMIR review, several reports have been drawn up: the final report on the extension of

[6] Regulation (EU) No 648/2012 of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EMIR).

[7] Regulation (EU) No 909/2014 of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories (CSDR).

the scope of interoperability arrangements, the review report on the use of OTC derivatives by non-financial counterparties, the review report on the efficiency of margining requirements to limit procyclicality, the review report on the segregation and portability requirements and the review report on ESMA input as part of the Commission consultation on the EMIR review. These reports were transmitted to the European Commission on 2 July 2015 and 13 August 2015, respectively.

Given the many questions raised by the market participants concerning the application of certain EMIR provisions, the Questions and Answers document has been updated regularly.

The PTSC also worked on the CSDR. On 5 August 2015 and 28 September 2015, respectively, two reports were submitted to the European Commission: the final report concerning the technical advice on penalties for settlement fails and the substantial importance of a CSD and the final report on the draft regulatory and implementing technical standards on CSD requirements and internalised settlement.

Finally, the PTSC drafted a consultation paper on draft regulatory technical standards on the operation of buy-in process, published on 30 June 2015.

2.1.8. Investment Management Standing Committee (IMSC)

ESMA contributes to the development of common standards and practices in relation to regulations and supervision of financial markets at EU level in the form of, inter alia, technical advice, opinions, recommendations, guidelines and regulatory technical standards. As regards collective investment management (commonly known as fund management), these ESMA documents are, at a first stage, drafted by the IMSC (and its subgroup, the Operational Working Group on Supervisory Convergence) which brings together experts of the financial market regulators from the EEA Member States, assisted by ESMA employees. After finalisation by the IMSC, the documents are submitted to ESMA's Board of Supervisors for final approval and publication on ESMA's website[8]. The CSSF actively contributes to the work of the IMSC.

In 2015, the IMSC worked in particular on the following topics:

- an advice, an opinion and updates of ESMA's Q&As on certain subjects relating to Directive 2011/61/EU of 8 June 2011 on alternative investment fund managers (AIFMD);
- Q&As, an opinion, a consultation paper, regulatory technical standards and a public statement of ESMA on certain topics under Directive 2009/65/EC of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS IV Directive) and Directive 2014/91/EU of 23 July 2014 amending the UCITS IV Directive (UCITS V Directive);
- a technical advice and an ESMA consultation paper concerning certain subjects pertaining to Regulations (EU) No 345/2013 and No 346/2013 of 17 April 2013 on European venture capital funds (EuVECA) and European social entrepreneurship funds (EuSEF) and Regulation (EU) 2015/760 of 29 April 2015 on European long-term investment funds (ELTIFs).

• Technical advice, opinion and Q&As of ESMA under the AIFMD

Following the entry into force of the AIFMD (Level 1) on 1 July 2011 and the adoption by the European Commission, on 19 December 2012, of Delegated Regulation (EU) No 231/2013 (Level 2) supplementing the AIFMD with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision, the AIFMD regime has been applicable since 22 July 2013. In this context, ESMA continues to develop and adopt documents (Level 3) that must clarify certain subjects and ensure consistent application of the provisions of the AIFMD.

Thus, in 2015, ESMA developed and published, among others, the following documents regarding the AIFMD regime:

- seven updates of the Q&As on the implementation of the AIFMD, the latest version of which is dated 15 December 2015 (ref.: ESMA/2015/1873). The new questions and answers cover very different matters, such as the obligations to report to competent authorities, the notification of investment fund managers, the calculation of leverage, additional own funds, calculation of the assets under management and obligations in

[8] https://www.esma.europa.eu/regulation/fund-management.

case of delegation of depositary functions;

- an advice dated 30 July 2015 to the European institutions (Commission, Parliament and Council) on the application of the AIFM passport to non-EU AIFMs and AIFs (ref.: ESMA/2015/1236). After having selected six States for a possible extension of the AIFM passport, ESMA considers that there is no obstacle to this extension for Guernsey, Jersey and Switzerland, but that more time is needed for the other three jurisdictions (United States, Hong Kong and Singapore) due to competition and regulation. On 17 December 2015, the European Commission addressed a response letter to ESMA requesting it to finalise its assessment concerning the regulatory regimes of the United States, Hong Kong, Singapore, Japan, Canada, Isle of Man, Cayman Islands, Bermuda and Australia by 30 June 2016;
- an opinion dated 30 July 2015, also addressed to the European institutions, concerning the functioning of the AIFM passport for AIFMs of EU Member States (ref: ESMA/2015/1235). ESMA specified in this opinion that given the relatively recent implementation of the AIFMD, it would see merit in the preparation of another opinion on the functioning of the passport after a longer period of implementation in all Member States. The European Commission accepted this proposal via a response letter dated 17 December 2015.

- **ESMA Q&As, opinion, consultation paper, regulatory technical standards and public statement on certain subjects relating to the UCITS IV and UCITS V Directives**

The UCITS V Directive, which entered into force on 17 September 2014, amends the UCITS IV Directive by laying down specific provisions relating to (i) depositaries (for example definition of the conditions under which safekeeping duties may be delegated to a sub-custodian, responsibility in case of loss of a financial instrument), (ii) sanctions (definition of administrative sanctions and measures that can be applied by the authorities) and (iii) remuneration (obligations incumbent upon investment undertakings and management companies acting on behalf of the UCITS they manage, to implement a policy that is consistent with sound risk management). The Member States must transpose the UCITS V Directive into their national law within 18 months, i.e. until 18 March 2016.

In 2015, ESMA published several documents relating to UCITS:

- 9 January 2015: update of the "Q&A on ESMA's guidelines on ETFs and other UCITS issues" (ref.: ESMA/2015/12);
- 26 March 2015: update of the "Q&A on Key Investor Information Document (KIID) for UCITS" (ref.: ESMA/2015/631). The presentation of past performance has been specified in the case of a merger (the receiving fund may use the past performance of the merging fund if the transaction does not modify the management policy and the entities involved in the investment management of the merging fund);
- 22 May 2015: an opinion on the impact of the EMIR regulation regarding the application of Articles 50(1)(g)(iii) and 52 of the UCITS Directive for OTC financial derivative transactions that are centrally cleared. Indeed, the clearing obligation under EMIR has a significant impact on the calculation of counterparty risk of cleared OTC derivative transactions by UCITS. ESMA invites the European institutions concerned to consider amending the UCITS Directive in order to take into account the clearing obligation for certain types of OTC derivative transactions required under EMIR;
- 23 July 2015: a consultation paper regarding the "Guidelines on sound remuneration policies under the UCITS V Directive and AIFMD" (ref.: 2015/ESMA/1172). This document proposes guidelines on remuneration policies required by the UCITS V Directive, as well as certain amendments in order to align the guidelines under the AIFMD. Stakeholder feedback was sought on the following: (i) categories of staff concerned, (ii) proportionality, (iii) management companies being part of a group, (iv) definition of performance fees, (v) use of payments in financial instruments, (vi) rules applying to delegation, (vii) governance of remuneration, and (viii) requirements regarding disclosure of remuneration. The final report on the guidelines on remuneration policies will be published by ESMA in the first quarter of 2016 and before 18 March 2016, which is the deadline for the transposition of the UCITS V Directive;
- 18 September 2015: the final report on the implementing technical standards on the procedures and forms for submitting information to ESMA by competent national authorities in relation to penalties and measures in accordance with the rules on sanctions under the UCITS V Directive (ref.: ESMA/2015/1409).

Moreover, on 1 February 2016, ESMA published an update of the "Questions and Answers on the application of the UCITS Directive" (ref.: 2016/ESMA/181), specifying how regulatory documentation of UCITS should be updated following the implementation of the UCITS V Directive.

Finally, on 2 February 2016, ESMA released a public statement providing details of its work on closet index tracking funds (with special focus on UCITS equity funds), i.e. funds presented to investors as actively managed funds with a corresponding fee structure, when in reality the manager stays close to a benchmark (ref.: ESMA/2016/138).

• Technical advice and consultation paper on the regulations on EuSEFs, EuVECAs and ELTIFs

The regulations on EuSEFs and EuVECAs, as well as the draft implementing technical standards, consultation papers and questions and answers concerning these regulations, have already been discussed in detail in the CSSF's Annual Reports of 2011, 2013 and 2014. It should be noted that the managers of these funds must comply with the requirements of the AIFMD.

On 16 February 2015, ESMA published, in a final report, its technical advice concerning the implementing measures of the regulations on EuSEFs and EuVECAs (ref.: ESMA/2015/227).

The ELTIF regulation, which is applicable since 9 December 2015, has also already been discussed in detail in the CSSF's Annual Reports 2013 and 2014. As a reminder, only EU alternative investment funds which are managed by AIFMs authorised in accordance with the AIFMD may be authorised and marketed as ELTIFs.

On 31 July 2015, ESMA launched a consultation on the preparation of draft regulatory technical standards under the ELTIF regulation (ref.: ESMA/2015/1239). The responses to this consultation, which ended on 14 October 2015, will allow ESMA to finalise the draft technical standards which must be submitted to the European Commission.

2.1.9. Financial Innovation Standing Committee (FISC)

The FISC's mission, as defined in Article 9 of Regulation (EU) No 1095/2010 establishing ESMA, is to assist ESMA in its tasks and responsibilities relating to consumer protection.

In the course of 2015, the FISC finalised a first draft guide for competent authorities in view of the implementation of MiFIR, which will grant new intervention powers to competent authorities as well as to ESMA and to the EBA. Thereby, authorities may, under certain conditions, prohibit or limit the marketing of certain financial instruments, structured deposits, certain types of activities, even certain financial practices.

Moreover, financial innovations, such as crowdfunding and the distributed ledger technology (DLT) which is used in the context of virtual currencies, have been studied and discussed within the FISC, notably in order to identify the risks and opportunities inherent in these innovations.

2.1.10. Credit Rating Agencies Technical Committee (CRA TC)

In 2015, the work of the CRA TC mainly consisted in pursuing the implementation of Regulation (EU) No 462/2013 on credit rating agencies (CRA 3 Regulation) amending Regulation (EU) No 1060/2009 (CRA Regulation).

In this context, the CRA TC prepared draft technical advices which were submitted to the European Commission. The documents "Technical Advice on Competition, Choice and Conflicts of Interest in the CRA Industry" and "Technical Advice on Reducing Sole and Mechanistic Reliance on Credit Ratings" were published on 2 October 2015. They address the measures to be implemented in order to reduce the sole and mechanistic reliance of financial institutions towards credit rating agencies as well as the impact of the CRA 3 Regulation on the credit rating market.

Moreover, the CSSF participated in a working group on alternative credit ratings, to be used by investors when performing their own credit assessment of issuers and financial instruments. In addition, the CSSF replied to ESMA's survey regarding the use of credit ratings by financial intermediaries and the supervision provided for in Articles 8(c) and 8(d) of the CRA Regulation.

2.1.11. Market Data Standing Committee (MDSC)

The MDSC continues the work of the former Market Data Reporting Working Group (MDR WG). It thus contributes to ESMA's work on issues related to market data reporting of derivative contracts under EMIR, transactions in financial instruments under MiFID II/MiFIR and securities financing transactions under Regulation (EU) 2015/2365 of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (SFTR). The MDSC also participates in the work relating to order data record keeping requirements and to the provision of reference data relating to financial instruments under MiFID II/MiFIR.

The MDSC contributes to the development of a single approach aligning, to the maximum extent, reporting requirements and avoiding double reporting. Among other things, it works on harmonising the format of reports to be used under EMIR, MiFID II/MiFIR (for transaction reporting and the financial instruments reference data system) and SFTR. In this context, the group supports the consistent use of the ISO 20022 format.

In 2015, the MDSC met six times and notably dealt with the following topics.

• EMIR

By imposing basic validation rules on trade repositories in December 2014 that only require verification that all the mandatory reporting fields have been filled in, ESMA launched a programme aiming at improving the quality of reports received under EMIR. In 2015, the MDSC drafted second level validation rules, that are more advanced than those used for the first series of tests. This second series of tests provides for verification of the content of the values reported in the fields and requires trade repositories to verify the logical dependencies between the fields of a report to determine the correct population of the fields. On 27 April 2015, ESMA published these new validation rules and requested trade repositories to integrate them into their IT systems until 31 October 2015.

Besides the efforts to enhance the quality of current reporting, the MDSC submitted mid-November 2015 a report to the European Commission on the review of the regulatory and implementing technical standards on reporting under Article 9 of EMIR. The report provides for clarification concerning the data fields, including their description, format or both. It also proposes to adapt the existing fields to the reporting logic prescribed in the Q&As relating to EMIR and published by ESMA, and to add a significant number of new fields and values to reflect market practice or other necessary regulatory requirements. Besides specifications regarding the content of reports, the final report also demonstrates ESMA's will to standardise the format of the reports received via the trade repositories and to promote the ISO 20022 standards chosen as the format for reporting of transactions under MiFID II/MiFIR.

Moreover, in 2015, the CSSF joined the delegated project TRACE (Access to Trade Repositories Project) of ESMA, aiming at centralising the collection of data from trade repositories through the setup of a central platform managed by ESMA. The documents describing the operational needs of the competent authorities in relation to this new interface have also been discussed within the MDSC in 2015.

• MiFID II/MiFIR

As regards MiFID II/MiFIR, the MDSC contributed to the drawing-up of draft regulatory and implementing technical standards, the final versions of which were published by ESMA on 28 September 2015. The MDSC's work mainly consisted in drafting the following regulatory technical standards (RTS):

- RTS 22: Draft regulatory technical standards on reporting obligations under Article 26 of MiFIR;
- RTS 23: Draft regulatory technical standards on supply of financial instruments reference data under Article 27 of MiFIR;
- RTS 24: Draft regulatory technical standards on the maintenance of relevant data relating to orders in financial instruments;
- RTS 25: Draft regulatory technical standards on clock synchronisation.

At the same time, the MDSC drafted a consultation paper, released in December 2015, which proposes guidelines mainly for transaction reporting, order record keeping and instrument reference data to be provided to the competent authorities. These guidelines provide detailed explanations in relation to the aforementioned draft technical standards and present, for different transaction scenarios, in the part relating to transaction reporting, the technical format and specific schema, including the ISO 20022 codification, to be used in order to report the relevant transactions. Their objective is to facilitate and harmonise the IT implementation of the reporting regime under MiFID II/MiFIR as far as possible. The consultation runs until 23 March 2016.

As regards the obligation to provide reference data relating to financial instruments pursuant to Article 27 of MiFIR, the CSSF joined ESMA's FIRDS project (Financial Instruments Reference Data System) in 2015. Thus, the CSSF has delegated the collection of reference data on financial instruments admitted to trading or traded on Luxembourg trading platforms to ESMA.

• SFTR

In 2015, the MDSC was charged with drafting regulatory and implementing technical standards under Articles 4 and 12 of the SFTR. To this end, a working group was created under the aegis of the MDSC.

2.1.12. Committee of Economic and Markets' Analysis (CEMA)

CEMA contributes to ESMA's mission by monitoring developments in financial markets, assessing systemic risks and providing economic background analysis for the general tasks of ESMA. More particularly, it assesses risks to investors and analyses markets and financial stability.

CEMA contributes to the identification, monitoring, and assessment of trends, potential risks and vulnerabilities in financial markets from a microprudential perspective and to the identification and monitoring of issues, risks and data needs related to investor protection. In performing these tasks, it pays special attention to cross-sectoral and cross-border risks, market developments as well as to trends in financial innovation. CEMA contributes to the regular reporting on risks and vulnerabilities to the relevant EU institutions pursuant to Article 32 of the ESMA Regulation. It provides its members with a platform to highlight, discuss and carry out new research and analysis plans to support and enhance the functions of ESMA. It also helps to disseminate these and other relevant studies and analyses among its members and market participants.

CEMA promotes and contributes to ESMA's objective of supervisory convergence by participating in the development of a harmonised framework for the assessment of systemic risks and financial stability issues in cooperation with the European Systemic Risk Board and other European Supervisory Authorities. It provides economic and risk analyses on supervisory convergence issues.

CEMA contributes to ESMA's mission as regards the development of a single regulation for EU financial markets. It actively supports ESMA's commitment to impact assessments of existing, planned or proposed regulation and supervisory practice, through analysing the impact of effects, including unintended side-effects.

In 2015, CEMA met four times, including twice with its groups of economic advisers to discuss key subjects for monitoring and analysing financial markets. It produced two Trends, Risks and Vulnerabilities (TRV) reports, which cover:

- fund investments in loan participation and loan origination;
- alternative indices - smart beta strategies and what they mean for investors;
- monitoring systemic risk in the hedge funds industry;
- measuring shadow banking;
- primary dealer constraints and sovereign bond liquidity;
- bank loan mutual funds - US case and implications for Europe.

In 2015, CEMA also released four quarterly Risk Dashboards (RD) and two working papers: "Real-world and risk-neutral probabilities in the regulation on the transparency of structured products" and "Monitoring systemic risk in the hedge fund sector".

2.1.13. IT Management and Governance Group (ITMG)

Detailed explanations on the work performed in 2015 by the ITMG are provided under point 1.3.1. of Chapter XII "Supervision of information systems".

3. MACROPRUDENTIAL SUPERVISION

In the wake of the financial crisis of 2008, it has been decided to strengthen the supervision of risk in the financial system as a whole, by taking better account of the interrelations of the development of the macroeconomic environment in the broad sense and that of the financial system. The macroprudential dimension aims at avoiding the pitfalls of a supervision that is fragmented across authorities and ensuring a global and consistent supervision, which is essential for the proper functioning of the financial system and the mitigation of threats looming over, in fine, the real economy.

Indeed, the financial crisis highlighted the increasing interdependence of the different components of the financial sector, as well as the scale of the return effects linked to the procyclical behaviour of financial agents. Hence, it became necessary to strengthen a more global vision of supervision, in order to be better armed to detect an accumulation of risks in the system. The focus of prudential supervision of banks thus shifted to an approach that further integrates the macro- and microprudential dimensions, while insisting on the complementarity of the two functions in order to reach the final goal of fostering the financial stability of the whole financial system.

This so-called macroprudential perspective notably resulted in the establishment of dedicated institutions: at EU level, the European Systemic Risk Board that was mandated as macroprudential authority in 2010, and in Luxembourg, the Systemic Risk Board established in April 2015. The SSM Regulation also conferred macroprudential competences to the ECB which are exercised in conjunction with the national authorities charged with macroprudential competences by virtue of national law.

3.1. European Systemic Risk Board (ESRB)

The creation of the European Systemic Risk Board (ESRB) in 2010 is part of the implementation of the new European System of Financial Supervision (ESFS) following the global financial crisis. The ESRB is an essential part of the ESFS whose purpose is to ensure the supervision of the financial system in the EU by highlighting the stability of the financial system as a whole.

The ESRB is responsible for the macroprudential supervision of the EU financial system. One of its main purposes is to address and mitigate systemic risks that might jeopardise the financial stability of the EU. Therefore, the ESRB must, among others:

- determine and collect the information necessary for its work;
- identify and prioritise systemic risks;
- issue warnings and make them public if necessary;
- recommend measures once the risks are identified.

The ESRB may issue warnings and recommendations for remedial action to be adopted and suggest legislative initiatives. These recommendations may be addressed to the EU, to one or several Member States, to one or several European Supervisory Authorities or to one or several national supervisory authorities.

The recommendations for the measures to be adopted are issued according to a colour code that varies depending on the risk level. If the ESRB notices that its recommendations have not been followed, it informs the addressee, the Council and, where appropriate, the European supervisory authority concerned in confidence.

The ESRB is composed of:

- a General Board ensuring the performance of the tasks;

- a Steering Committee assisting in the decision-making process;
- a Secretariat responsible for the day-to-day business;
- an Advisory Scientific Committee and an Advisory Technical Committee providing advice and assistance.

The President of the ECB, Mr Mario Draghi, chairs the ESRB for a five-year mandate. The Chair exercises its functions with the assistance of two Vice-Chairs; one is elected by the members of the General Council of the ECB within the General Council, whereas the second is the Chairman of the Joint Committee. Ms Christiane Campill, head of department, represents the CSSF as a non-voting member at the General Board of the ESRB.

The field of investigation of the ESRB comprises the whole financial sector, including banks, insurance companies, financial markets and all the activities known as shadow banking. Moreover, the systemic approach used by the ESRB involves that the latter analyses the dependencies, interconnections and contagion mechanisms between sub-sectors. The work of the ESRB is in line with that of the Financial Stability Board (FSB) at an international level.

In 2015, the ESRB thus issued the "Recommendation on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures" (ESRB/2015/2), inviting Member States to assess cross-border effects of macroprudential policy and to set up a voluntary reciprocity principle for macroprudential measures. It also published the "Recommendation on recognising and setting countercyclical buffer rates for exposures to third countries" (ESRB/2015/1) ensuring coordination of countercyclical buffer rates applicable to third countries. Moreover, the ESRB published two follow-up reports in relation to the "Recommendation on lending in foreign currencies" (ESRB/2011/1) and to the "Recommendation on the macroprudential mandate of national authorities" (ESRB/2011/3).

In addition, the ESRB published, in 2015, the following reports which are of a macroprudential interest:

- Occasional Paper No. 8: Identifying early warning indicators for real estate-related banking crises;
- ESRB report on issues to be considered in the EMIR revision other than the efficiency of margining requirements;
- ESRB report on the efficiency of margining requirements to limit pro-cyclicality and the need to define additional intervention capacity in this area (issued within the framework of the EMIR assessment);
- Occasional paper No. 7: Network analysis of the EU insurance sector;
- ESRB handbook on operationalising macroprudential policy in the banking sector – addendum on macroprudential leverage ratios;
- ESRB report on misconduct risk in the banking sector.

The aforementioned recommendations are all available on the website of the ESRB under "Publications", section "Recommendations"[9].

At the ESRB, the CSSF participated, in 2015, in the Advisory Technical Committee (ATC) and its subgroups: the Task Force on Stress Testing, the Expert Group on Shadow Banking and the Expert Group on Cross-Border Effects of Macro-Prudential Policy and Reciprocity.

3.2. The competence of the ECB in the macroprudential area

The entry into force of the directive and regulation on capital requirements applicable to banks and large investment firms (CRD IV/CRR) marked a considerable turning point at European level as regards the macroprudential policy in the banking area, providing competent or designated authorities with new macroprudential tools.

Article 5 of Regulation (EU) No 1024/2013 of 15 October 2013 (SSM Regulation) grants certain macroprudential competences in the banking field to the ECB.

While, initially, the designated national authorities are responsible for implementing macroprudential measures under CRD IV, after prior consultation with the ECB, Article 5(2) empowers the ECB to impose, where necessary, more stringent requirements than those originally envisaged by the national authorities.

[9] https://www.esrb.europa.eu/pub/recommendations/html/index.en.html.

At ECB level, the aspects linked to the macroprudential field are discussed within a new forum, the Macro-Prudential Joint Forum, which gathers the members of the Governing Council of the ECB and of the SSM's Supervisory Board.

From a formal point of view, the macroprudential decisions taken by the Supervisory Board are ultimately adopted by the ECB's Governing Council.

The Macro-Prudential Joint Forum meets on a quarterly basis in order to examine the financial stability in the euro area, as well as in the Member States participating in the SSM, discuss the possible emergence of economic imbalances or systemic risks and review the action of the national macroprudential authorities, and, in case of their inaction, discuss the possible opportunity for the ECB to act.

The work of the Macro-Prudential Joint Forum is prepared by the Financial Stability Committee (FSC), a traditional committee of the Eurosystem/ESCB. As new supervisory macroprudential missions have been attributed to the ECB under the SSM Regulation, the FSC now sits in different configurations, including a new composition extended to all the SSM member authorities. The CSSF is represented by Ms Christiane Campill, head of department.

The FSC is mainly in charge of:

- monitoring the development of the risks in the banking sectors of the participating States and assessing the macroprudential measures implemented at national level;
- giving opinions on the proposals for macroprudential decisions from the Macro-Prudential Coordination Group (MPCG) of the ECB;
- advising on positions of the ECB in relation to macroprudential policy.

In this regard, the macroprudential measures contemplated or decided by the designated or competent authorities must be examined individually and discussed in depth in order to both identify and manage systemic risks and deepen and extend the discussion on the determination and operationalisation of macroprudential tools available to the Member States.

The FSC and the MPCG submit their draft macroprudential proposals to the Supervisory Board for decision.

In order to fulfil such a broad mandate, the ECB created two permanent FSC subgroups:

- the Macro-Prudential Analysis Group (MPAG) mainly focusses on examining and developing analytical tools, i.e. modelled macroprudential analyses;
- the Macro-Prudential Policy Group (MPPG) is in charge of defining and calibrating the tools as a way to support macroprudential policy discussions.

The work of these two subgroups is used as basis for discussions at the FSC. The CSSF actively contributes to the work of these two subgroups.

The subjects dealt with in 2015 include the stock-taking and analysis of macroprudential decisions taken by the national authorities, the creation of databases and models allowing identifying the events justifying the activation of macroprudential tools, the comparative analysis of real estate sectors, the identification of financial cycles and the analysis of the specific implications of a low-interest rate environment.

3.3. Systemic Risk Board (SRB)

The Systemic Risk Board was established by the law of 1 April 2015 in accordance with a recommendation of the European Systemic Risk Board (ESRB/2011/3)[10].

The mission of the SRB is to coordinate the implementation, by the authorities represented in the committee, of the macroprudential policy, the objective of which is to contribute to maintaining the stability of the Luxembourg financial system. The aim of the SRB's action, by strengthening the resilience of the financial system and by decreasing the accumulation of systemic risks, is the financial sector's sustainable contribution to economic growth.

[10] Recommendation ESRB/2011/3 of the European Systemic Risk Board of 22 December 2011 on the macroprudential mandate of national authorities (OJ C 41 14.2.2012, p. 1), available on the website of the ESRB (www.esrb.europa.eu).

The SRB has been established in the form of a college composed of four members, namely the Ministry of Finance, the BCL, the CSSF and the Commissariat aux Assurances, represented, respectively, by the Minister of Finance, the Director Generals of the BCL and of the CSSF and the Director of the Commissariat aux Assurances. This collegiate structure allows adequate cooperation between the aforementioned authorities and facilitates experience-sharing according to the area of competence.

For the purpose of accomplishing its mission and in order to reach the ultimate goal of macroprudential policy, the SRB pursues intermediary objectives by taking into account the specificities, structure and weaknesses of the national financial system. It also periodically assesses the adequacy of the objectives pursued, as well as the efficiency of the macroprudential tools adopted to maintain the stability of the financial system.

In order to exercise its mandate, the SRB is entitled to issue any opinion it deems useful and necessary to pursue the objectives, issue recommendations on corrective measures to be taken to address the identified risks, as well as issue warnings should the identified risks seriously threaten the financial stability. The opinions, recommendations and warnings adopted by the SRB may be made public, if deemed appropriate. The SRB may address its opinions, warnings and recommendations to the Government, the CSSF, the Commissariat aux Assurances and the BCL, as well as to all or part of the financial sector, thereby including credit institutions, insurance and reinsurance undertakings, investment funds and market infrastructures.

The SRB held two meetings in 2015 in order to discuss the risks and weaknesses of the Luxembourg financial sector. One of the first subjects addressed was real estate, in particular the long-term sustainability of prices in a context of structural imbalance between supply and demand. The purpose of analysing real estate was to identify the weaknesses and best tools to mitigate them. The extent to which the banks contribute, through the combined effect of their credit strategies, to the rise of prices as well as to the global household indebtness is thus an important issue considered as one of the SRB's priorities. A second subject was the parallel banking system, i.e. bank-like entities and activities operating outside the banking scope. Related thereto is the question of interdependence of banks and investment funds and that of identifying non-banking entities bearing banking risks.

In the context of the implementation, as of January 2016, of macroprudential provisions introduced by CRD IV, and in light of the CSSF being the designated authority in this field, the SRB responded to the CSSF's requests by issuing a recommendation in 2015 on the activation and setting of a 0% countercyclical buffer rate for credit institutions and investment firms, as well as an opinion exempting small and medium-sized investment firms from maintaining countercyclical capital and capital conservation buffers. Moreover, following a request of the CSSF, the SRB issued an opinion on the activation and calibration of an additional capital buffer for other systemically important institutions.

The decisions taken by the CSSF as designated authority are described in detail in point 3. of Chapter V "Supervision of banks" relating to the implementation of the macroprudential supervision of banks.

4. COOPERATION WITHIN THE OTHER EUROPEAN BODIES

4.1. European Insurance and Occupational Pensions Authority (EIOPA)

EIOPA, composed of the representatives of the EEA insurance and occupational pensions authorities, assists the European Commission in the preparation of technical measures relating to EU legislation on insurance and occupational pensions and ensures the harmonised and continuous application of the European legislation in the Member States. One key mission of EIOPA is the protection of the policyholders as well as of the members and beneficiaries of occupational pension schemes.

In 2015, the CSSF participated as a member in the work of EIOPA and of the following permanent working groups.

4.1.1. Occupational Pensions Committee (OPC)

From 11 May to 10 August 2015, EIOPA launched a stress test for institutions for occupational retirement provision based on parameters determined using data collected at the end of 2014. In accordance with these criteria, the authorities of 17 countries with assets above EUR 500 million, among which Luxembourg, were invited to participate. In the light of the limited scale of defined contribution schemes in Luxembourg, EIOPA decided that the stress test of Luxembourg pension funds should be limited to defined benefit or hybrid schemes. On 26 January 2016, EIOPA published the final report on the stress test on its website. The results of this stress test were conclusive for Luxembourg insofar as the test showed that the Luxembourg pension funds that had participated in the stress test were quite resilient to adverse stress scenarios, mainly owing to the level of pre-funding of the pension funds concerned and the presence of financially sound sponsoring undertakings.

4.1.2. Review Panel

The Review Panel is responsible for assisting EIOPA in its task to ensure consistent and harmonised implementation of EU legislation in the Member States.

In 2015, the CSSF contributed to a peer review in order to assess the reporting practices regarding the statement of investment policy principles of institutions for occupational retirement provision. The outcome of this exercise should be published in the second quarter of 2016.

4.2. Joint Committee of the European Supervisory Authorities EBA, ESMA and EIOPA

4.2.1. Sub-Committee on Financial Conglomerates (JCFC)

The CSSF follows the work of the JCFC and contributes to it when necessary. As no financial conglomerate has been identified for which the CSSF would need to act as coordinator, its involvement remains limited.

The JCFC continues to contribute to the work of the other European supervisory authorities in areas related to the drawing-up of rules on the supplementary supervision of financial conglomerates.

4.2.2. Sub-Committee on Consumer Protection and Financial Innovation (SC CPFI)

The mission of the SC CPFI is to intervene in areas relating to consumer protection and financial innovation in a trans-sectoral manner (EBA, ESMA, EIOPA).

In 2015, the main work carried out in the SC CPFI and its subgroups included:

- drafting of the “Joint Committee Discussion Paper on automation in financial advice” of the new subgroup of the SC CPFI in charge of the financial advice automation phenomenon;
- finalisation of the “Guidelines for cross-selling practices” in order to steer the behaviour of professionals carrying out cross-selling for their clients;
- drafting of a first version open to the public of regulatory technical standards, entitled “PRIIPs Key Information Documents - Draft regulatory technical standards”, on the key information documents relating to Packaged Retail and Insurance-based Investment Products (PRIIPs). This includes the defining of the form and content of the Key Information Document (KID), as well as the methods to calculate costs, risks and remunerations of PRIIPs.

4.2.3. Anti-Money Laundering Committee (AMLC)

As regards AML/CFT, the CSSF contributed in 2015 to the work of the Anti-Money Laundering Committee (cf. point 2.1.2. of Chapter XVI “Financial crime”).

4.3. European Group of Auditors' Oversight Bodies (EGAOB)

In 2015, the CSSF took part in the work of the European Group of Auditors' Oversight Bodies (EGAOB) and its sub-working group, the EGAOB Preparatory.

In particular, the EGAOB Preparatory:

- pursued the assessment of the adequacy of the public supervisory authorities of 12 countries recognised as equivalent. This analysis was carried out pursuant to Article 47(3) of Directive 2006/43/EC;
- started analysing the equivalence of certain third-country public oversight, quality assurance, investigation and penalty systems for auditors and audit entities benefiting from a transitional period based on the Decision of the European Commission of 13 June 2013 (2013/288/EU). This analysis was carried out pursuant to Article 46 of Directive 2006/43/EC;
- worked on drafting internal rules for the future European supervisory body, the Committee of European Auditing Oversight Bodies (CEAOB), the mission of which is defined in Article 30 of Regulation (EU) No 537/2014 on specific requirements regarding statutory audit of public-interest entities.

4.4. European Audit Inspection Group (EAIG)

In 2015, the CSSF participated in the work of this working group (cf. point 2. of Chapter XIII "Public oversight of the audit profession").

4.5. Accounting Regulatory Committee

The CSSF and the Ministry of Justice jointly participate in the work of the Accounting Regulatory Committee in which every Member State is represented. This committee has been set up by the European Commission in accordance with the provisions of Article 6 of Regulation (EC) No 1606/2002 of 19 July 2002 on the application of international accounting standards (IAS Regulation). Its main function is to provide an opinion on the proposal of the European Commission to adopt an international accounting standard (IFRS standard) in accordance with the provisions of Article 3 of the IAS Regulation.

The endorsement status of the international accounting standards can be viewed on the website of the European Commission at http://ec.europa.eu/finance/accounting/governance/committees/arc/index_en.htm.

On 18 June 2015, the European Commission published[11] the conclusions of the assessment of the IAS Regulation according to which consolidated financial statements of EU listed companies must be prepared in accordance with the IFRS standards[12]. This assessment consisted in analysing if the application of IFRS standards allowed reaching the desired objective, namely harmonising financial reporting of listed companies by requiring a high level of transparency and comparability of their financial statements in order to enhance the functioning of the EU capital markets and the single market. The report not only presents the conclusions of this assessment, but also describes the governance structure of the bodies concerned and identifies possible improvements.

4.6. Accounting Directive Committee

The CSSF and the Ministry of Justice jointly participate in the work of the Accounting Directive Committee, which was set up in accordance with the provisions of Article 50 of Directive 2013/34/EU on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC and repealing Directives 78/660/EEC and 83/349/EEC (New Accounting Directive).

[11] http://ec.europa.eu/finance/accounting/ias-evaluation/index_en.htm.

[12] The Member States may extend the application of IFRS standards to the annual individual financial statements and to non-listed companies. In addition, the Transparency Directive provides that all issuers (including non-EU) whose securities are listed on a regulated market located or operated in the EU, must use the IFRS standards.

The role of this committee, which met for the first time on 17 September 2015, is to assist the European Commission in analysing the equivalence of the applicable requirements in third countries as regards the drafting of the reports on payments made to governments (provisions introduced by Chapter 10 of the New Accounting Directive (country-by-country reporting), which aim to fight corruption in third countries rich in natural resources (minerals, oil, natural gas and primary forests)). A preliminary analysis of existing requirements in Canada was presented to the Member States.

4.7. Expert Group on Money Laundering and Terrorist Financing (EGMLTF)

As regards AML/CFT, the CSSF contributed in 2015 to the work of this working group of the European Commission (cf. point 2.1.3. of Chapter XVI "Financial crime").

5. LIST OF EUROPEAN GROUPS IN WHICH THE CSSF PARTICIPATES

At EU level, the CSSF participates as a member in the work of the following committees, working groups and subgroups.

European Systemic Risk Board (ESRB)

- **General Board**
- **Advisory Technical Committee and the subgroups**
  Task Force on Stress Testing
  Expert Group on Cross-border Effects of Macro-Prudential Policy and Reciprocity
  Expert Group on Reciprocity and Spillover
  Expert Group on Shadow Banking

European Banking Authority (EBA)

- **Board of Supervisors**
- **Standing Committee on Regulation and Policy (SCRePol) and the subgroups**
  Subgroup on Credit Risk
  Subgroup on Governance and Remuneration
  Subgroup on Liquidity
  Subgroup on Market Risk
  Subgroup on Operational Risk
  Subgroup on Own Funds
  Subgroup on Securitisation and Covered Bonds
  Subgroup on Supervisory Disclosure and Information
  Network on ECAIs (External Credit Assessment Institutions)
  Task Force on Authorisations, Qualifying Holdings and Acquisitions
  Task Force on Large Exposures
  Task Force on Leverage Ratio
  Task Force on Market Infrastructures
  Task Force on Model Validations
  Task Force on Prudential Consolidation
  Task Force on Time Commitment
  Project Team on Investment Firms

- **Standing Committee on Oversight and Practices (SCOP) and the subgroups**
  - Subgroup on Analysis Tools
  - Subgroup on Supervisory Effectiveness and Convergence
  - Subgroup on Vulnerabilities
  - Task Force on Resolution Colleges and Notifications
  - Task Force on IT Risk Supervision
  - Workstream on Outsourcing
- **Standing Committee on Accounting, Reporting and Auditing (SCARA) and the subgroups**
  - Subgroup on Accounting
  - Subgroup on Auditing
  - Subgroup on Reporting
  - Subgroup on Transparency
- **Standing Committee on Consumer Protection and Financial Innovation (SCCONFIN) and the subgroups**
  - Subgroup on Consumer Protection
  - Subgroup on Innovative Products
- **Standing Committee on IT and the subgroups**
  - Information Technology Sounding Board
  - Subgroup on XBRL
- **Resolution Committee (ResCo) and the subgroup**
  - Subgroup on Crisis Management
- **Review Panel**
- **European Forum on the Security of Retail Payments (SecuRe Pay Forum) and the subgroup**
  - Workstream on Secure Communication
- **Expert Group on EU-wide stress-testing**
- **Network on Equivalence**
- **Network on Single Rulebook Q&A**
- **Network on CRR/CRD**
- **Task Force on Consistency of Risk Weighted Assets**
- **Task Force on Impact Studies**
- **Task Force on Payment Services and the subgroup**
  - Workstream on Passporting
- **Task Force on Stress Testing**
- **Task Force on Stress Test Methodology**
- **Task Force on Supervisory Benchmarking**
- **Credit Institutions Register**
- **Asset Quality Review**
- **Human Resources Network**
- **Press Officers**

European Securities and Markets Authority (ESMA)

- **Board of Supervisors**
- **Supervisory Convergence Standing Committee (SCSC) and the subgroup**
  Assessment Group Prospectus
- **Market Integrity Standing Committee (MISC) and the subgroups**
  Working Group on Market Abuse Regulation
  Task Force on Benchmarks
- **Corporate Reporting Standing Committee (CRSC) and the subgroups**
  Project Group on IFRS
  European Enforcers Coordination Sessions
  Audit Working Group
  European Electronic Access Point Task Force
  European Single Electronic Format Task Force
  Joint Task Force on TD Related Issues (mandated jointly with the CFSC)
- **Corporate Finance Standing Committee (CFSC) and the subgroups**
  Task Force on Omnibus II related Prospectus Issues
  Operational Working Group on Prospectus related Issues
  Operational Working Group on Transparency related Issues
  Joint Task Force on TD related Issues (mandated jointly with the CRSC)
  Advisory Group on Corporate Governance
  Takeover Bids Network
  Consultative Working Group
- **Investor Protection and Intermediaries Standing Committee (IPISC) and the subgroups**
  IPISC Working Group
  Temporary Group on contracts for difference and other speculative products
- **Secondary Markets Standing Committee (SMSC) and the subgroup**
  Pre-trade Transparency Waiver Review Group
- **Post-Trading Standing Committee (PTSC) and the subgroup**
  Task Force on CSD
- **Investment Management Standing Committee (IMSC) and the subgroups**
  Operational Working Group on Supervisory Convergence
  Task Force on AIFMD Reporting
- **Financial Innovation Standing Committee (FISC) and the subgroups**
  Distributed Ledger Technology Task Force
  Product Intervention Task Force
- **Market Data Standing Committee (MDSC) and the subgroups**
  EMIR Task Force
  MiFID II/MiFIR Implementation and Reporting Task Force
  SFTR Task Force
- **Committee for Economic and Markets' Analysis (CEMA)**
- **IT Management and Governance Group (ITMG)**
- **Credit Rating Agencies Technical Committee**

- **Human Resources Network**
- **Legal Network**
- **Consumer Network**
- **International Relations Network**
- **Press Officers Network**

European Insurance and Occupational Pensions Authority (EIOPA)

- **Board of Supervisors**
- **Occupational Pensions Committee (OPC) and the subgroups**
  Workstreams recast IORP Directive
  Solvency Subgroup
- **Financial Stability Committee (FSC) and the subgroup**
  OPC/FSC Stress Test Group
- **Review Panel**
- **Press Officers**

Joint Committee of the European Supervisory Authorities EBA, ESMA, EIOPA

- **Sub-Committee on Financial Conglomerates**
- **Sub-Committee on Anti-Money Laundering (AMLC)**
- **Sub-Committee on Consumer Protection and Financial Innovation**

Single Resolution Board (SRB)

- **Committee on Resolution Planning**
- **Committee on Crisis Management and Resolution**
- **Committee on Contributions**
- **Committee on Cooperation between the SRB and the NRAs and the subgroup**
  Training Network
- **SRB ICT Working Group on reporting standards**
- **IT and Security**

European Central Bank (ECB)/Single Supervisory Mechanism (SSM)

- **Supervisory Board**
- **Steering Committee**
- **High-Level Group on Options & Discretions**

- **High-Level Group SREP**
- **Task Force on National Powers**
- **Ethics Framework Task Force**
- **Eurosystem / ESCB Communications Committee (ECCO)**
- **Working Group on Article 24(2) of the CRR**
- **Financial Stability Committee (FSC) and the subgroups**
  - Macro-Prudential Policy Group
  - Expert Group on legal acts
  - Macro-Prudential Analysis Group
  - Drafting Team on CRR/CRD IV
  - Workstream A Data
  - Workstream B Models
  - Workstream on Credit Register
- **Information Technology Committee (ITC) and the subgroups**
  - Working Group on Infrastructure Portfolio Management, Operations and Service Management
  - Transport Layer Security Project
  - Business Management Project Working Group
- **Budget Committee**
- **Human Resources Committee and the subgroup**
  - Task Force on Training and Development
- **Internal Auditors Committee (IAC)**
- **Legal Committee (LEGCO)**
- **Organisational Development Committee (ODC)**
- **Statistics Committee (STC) and the subgroups**
  - Working Group on Supervisory Statistics
  - Working Group on Statistical Information Management
  - Working Group AnaCredit
  - Expert Group on Data Quality
- **Senior Management Network and the subgroup**
  - Working Group on High Supervisory Standards
- **Financial Market Infrastructures Network**
- **LSI On-Site Methodology Drafting Team**
- **LSI SREP Drafting Team**
- **Planning & Coordination of SEP Network**
- **Enforcement & Sanctions Network and the subgroup**
  - Working Group on the Total Turnover
- **Supervisory Policies Network (SPO) and the subgroups**
  - Workstream on MoUs between ECB & Third Countries
  - Workstream on Own Funds

- **Methodology and Standards Development (MSD Network) and the subgroups**
  MSD Network - Remuneration
  MSD Network – ICAAP
  MSD Network - Liquidity
- **Crisis Management Network**
- **Centralised On-site Inspections Network (COI) and the subgroups**
  Drafting Team on Business Model and Profitability
  Drafting Team on Depositary Banks and Custodians
  Drafting Team on IT Risks
- **Network on Risk Analysis and the subgroup**
  NCA Network on User Requirements for Supervisory Reporting
- **Internal Models Network**
- **Supervisory Quality Assurance & Benchmark (SQA)**
- **ELIS**
- **Task Force on Common Rules & Minimum Standards (CRMS)**
- **Central Operations Office Network and the subgroup**
  IMAS User Group
- **Status of IT Development for the SSM IT supervision tool**
- **Authorisation Network**
- **LSI Data Collection Exercise**
- **LSI Data Request**
- **IT Cross Jurisdictional Contact Group**
- **Informal Contact Group on National Parliaments**
- **FSFee**

Council of the EU

- **Venture Capital and Social Entrepreneurship Funds**
- **Market Abuse Regulation (MAR)**
- **Ad hoc Working Party on Financial Services**
- **Central Securities Depositories Regulation**
- **Regulation on European Long Term Investment Funds**
- **Regulation on Money Market Funds**
- **Benchmark Regulation**
- **Regulation on the prospectus to be published when securities are offered to the public or admitted to trading**
- **IORP II**

European Commission

- Accounting Directive Committee (ADC)
- Accounting Regulatory Committee (ARC)
- Audit Regulatory Committee (AuRC)
- European Group of Auditors' Oversight Bodies (EGAOB) and the subgroup
  EGAOB Preparatory
- European Audit Inspection Group (EAIG)
- Committee on the Prevention of Money Laundering and Terrorist Financing (CPMLTF)
- Expert Group on Money Laundering and Terrorist Financing (EGMLTF)
- Expert Group Banking, Payments, Insurance

European Financial Reporting Advisory Group (EFRAG)

- Consultative Forum of Standard Setters

Others

- Expert Group of the European Securities Committee
- Passport Experts Network
- FIN-NET

Agents hired in 2015 and 2016: Departments "International, regulation and enforcement" and "UCI on-site inspections"

Left to right: Patrick HOFFMANN, Marij JANSSEN, Ana LOZANO, Bertrand CORNET, Guilhem ROS, Baptiste LOPEZ

CHAPTER III

THE INTERNATIONAL DIMENSION OF THE CSSF'S MISSION

1. Cooperation within international institutions
2. List of international groups in which the CSSF participates

1. COOPERATION WITHIN INTERNATIONAL INSTITUTIONS

Article 3 of the law of 23 December 1998 establishing a financial sector supervisory commission appoints the CSSF, inter alia, to deal with and take part in the negotiations on the financial sector issues at international level. In accordance therewith, the CSSF participates in the work of the international fora mentioned below.

1.1. Basel Committee on Banking Supervision

The Basel Committee is chaired by Mr Stefan Ingves (Sweden) and the CSSF is represented by Mr Claude Wampach, *conseiller de direction 1re classe*.

The CSSF participates in the work of the Basel Committee, of the main sub-committees (Accounting Experts Group, Policy Development Group and Supervision and Implementation Group) and of some working groups which are particularly relevant for the prudential supervision in Luxembourg, notably the Working Group on Liquidity, the Working Group on Operational Risk and the Large Exposures Working Group.

In 2015, the issues dealt with by the Basel Committee were still dominated by the reform agenda adopted by the G20 as a response to the financial crisis. The 2015 and 2016 work programme was prepared with a view to finalising this banking reform agenda by the end of 2016. The communication of this deadline through the press release of 11 January 2016 aims to provide banks with greater clarity on their business orientations. Indeed, it is difficult planning business activity, in particular the supply of credit to the economy, when associated regulatory costs are uncertain. Once this uncertainty has been eliminated, the banking sector will be able to play its role of financing the economy more efficiently. This announcement is thus important, especially in times of weak economic growth.

As regards the substance of the ongoing reforms, the Basel Committee faces two major challenges: (1) the recast of the different parts of the Basel Accord III (solvency, liquidity and leverage) into a uniform framework whose different capital requirements are generally risk-adjusted and consistent on an individual level, and (2) finalising the work on capital requirements for credit risk and operational risk and aiming to fully restore public confidence in regulations governing solvency. As specified in the said press release, the Basel Committee does not intend to significantly increase the overall capital requirements and the leverage ratio to be implemented as a Pillar 1 measure as from 2018 will be set at 3% of Tier 1 capital for Global Systemically Important Banks (G-SIBs). Moreover, the revision by the Basel Committee of the calculation of regulatory capital requirements through internal model approaches should lead to a more restrictive framework, and will include the removal of internal model approaches for certain risks, such as the removal of the Advanced Measurement Approach (AMA) for operational risk.

Work conducted in 2015 by the Basel Committee led to several publications, such as the second consultative paper on the standardised approach for credit risk and the consultative document on the identification and measurement of step-in risk, both published in December 2015 and which should be of particular interest to the Luxembourg banking sector. The same is true for the June 2015 public consultation relating to the interest rate risk in the banking book. It is also worth mentioning the following publications which impact the Luxembourg banks marginally or less directly: the new regulatory market risk framework (January 2016) and the TLAC[1] holdings consultative document (November 2015). Finally, in the context of the endeavours of the Luxembourg presidency of the EU as regards securitisation, it is worth mentioning the consultation document of the Basel Committee of November 2015 which introduces a preferential capital treatment for simple, transparent and comparable securitisations as defined in the criteria released on 23 July 2015 by the Basel Committee and IOSCO.

In conjunction with its regulatory work, the Basel Committee further strengthened its monitoring and assessment programme for the implementation of the agreed reforms (cf. point 1.1.4. below).

All the publications by the Basel Committee and information on its mission and organisational structure are available on the website www.bis.org.

[1] Total Loss-Absorbing Capacity.

1.1.1. Credit risk

As a response to feedback on the first consultative document, the Basel Committee published a second consultative document revising the standardised approach for credit risk. The purpose of the revisions is, in particular, to reduce the mechanistic reliance on external ratings, to review risk sensitivity of the Basel III framework and to reduce variability in risk-weighted assets across banks and jurisdictions.

As stated in the second consultative document, the Basel Committee finally discarded the option to entirely remove all references to external credit ratings. Instead, the Basel Committee proposes:

- in jurisdictions that allow the use of ratings for regulatory purposes (such as the EU), the possibility to continue using external ratings to determine risk weights for rated exposures while introducing due diligence requirements aiming to reduce mechanistic reliance on external ratings. Subject to the results of this due diligence, risk weights could be higher;
- in jurisdictions that do not allow the use of external ratings for regulatory purposes (such as the United States), the possibility to classify exposures into different grade buckets according to defined criteria, while introducing due diligence requirements as well.

For unrated exposures, the two approaches described above (through external ratings and without using external ratings) do not always coincide. For example, treatment of exposures to unrated institutions, including (unrated) credit institutions, will be the same, whereas this will not be the case for exposures to unrated corporates. Indeed, for jurisdictions that allow the use of external ratings for regulatory purposes, the risk weight for unrated corporates will be 100% while for jurisdictions that do not allow the use of external ratings for regulatory purposes, the risk weight will depend on the classification between investment grade exposure (75% risk weight) and non-investment grade exposure (100% risk weight).

Moreover, the Basel Committee's proposal tends to break the link between banks and their sovereigns. Thus, for exposures to rated credit institutions and contrary to the current CRR framework, reference is no longer made to the rating of the sovereign in the jurisdiction in which the institution is established. In addition, external credit rating used for risk weighting must not incorporate implicit government support any more. The Basel Committee envisages introducing a minimum risk weight according to the jurisdiction in which the institution is established solely for exposures to unrated institutions.

Furthermore, as announced in the first consultative document, the Basel Committee proposes more granular risk weights according to loan-to-value (LTV) for real estate loans to retail customers. Nevertheless, the initial proposal of the Basel Committee consisting in differentiating risk weights according to the borrower's ability to pay, through the debt-service coverage ratio, has been removed.

Finally, the Basel Committee also intends to simplify the credit risk mitigation framework (reduction of the number of eligible approaches, update of the eligibility criteria and recalibration of the supervisory haircuts).

The implementation of the new standardised approach for credit risk will concern the majority of banks in Luxembourg, currently accounting for about 3/5 of the aggregate balance sheet.

As regards advanced methods, the Basel Committee continues working on restoring public confidence in the internal risk management methods and guaranteeing a level playing field for banks that use these approaches. Indeed, in the framework of its regulatory consistency assessment programme in relation to Basel III, the Basel Committee noted that there is a significant variation in the regulatory capital ratios of banks which use advanced methods to calculate capital requirements. Where these variations do not result from the risk degree inherent in business but only depend on choices of modelling, a risk of competitive distortion between banks is created and may give rise to distrust with regard to the results produced by these approaches. In order to maintain confidence and this level playing field, the Basel Committee committed with the G20 to take all the necessary measures. The measures being studied include, in particular, the introduction of a floor threshold applying to the inputs and outputs of internal models, more detailed rules for the implementation of these models and the removal of internal ratings-based approaches in fields where modelling possibilities have proved insufficiently sound.

1.1.2. Operational risk

In October 2014, the Basel Committee launched a consultation for the replacement of the simpler approaches for operational risk, the Basic Indicator Approach (BIA) and the Standardised Approach (TSA), by a single approach.

Since then, the work of the Basel Committee has shown that, as regards operational risk, the combination of a standardised approach with individual banks' past operational losses balances best simplicity, risk sensitivity and comparability. Consequently, the Basel Committee drafted the Standardised Measurement Approach (SMA) with the objective of replacing the three existing approaches for operational risk, including the Advanced Measurement Approach (AMA), by a single approach.

According to the Basel Committee, the AMA failed to produce the results expected since its introduction in 2006 with the Basel II framework. The inherent complexity of internal modelling of operational risk and the ensuing challenges for supervision, as well as the lack of comparability of these internal models and the variability of their results are all arguments against the AMA.

The Basel Committee believes that the SMA not only ensures greater comparability of results with a simpler approach, but also embeds greater risk sensitivity. The SMA has the key characteristics of the approach submitted to consultation in 2014, such as the Business Indicator (BI), which combines different elements of financial statements and whose possible values are broken down into five buckets, adapting them such as to suit all the banks. Banks whose BI is in one of the four higher buckets must take into account their own past losses in order to either moderate or increase their capital requirements determined by the SMA. Taking into account past losses thus allows increasing substantially the risk sensitivity of the approach and should encourage the banks concerned to improve their risk management in order to minimise the financial impact of the identified incidents.

A public consultation launched by the Basel Committee in March 2016 invites all the interested parties to submit comments on the proposed SMA. At the end of the consultation and after assessment of the comments, the Basel Committee will make a final calibration of the approach and publish it by setting a reasonable timeframe for its implementation and by providing more details on the parallel removal of the AMA.

While these changes will concern all the Luxembourg banks, the impact in terms of organisation will be the most significant for the 10 Luxembourg credit institutions that currently use the AMA approach.

1.1.3. Step-in risk

In the context of the G20 initiative to strengthen the oversight and regulation of shadow banking systems in order to mitigate potential systemic spillover risks, the Basel Committee set up the Task Force on the Scope of Regulatory Consolidation (TFRC). In 2015, the TFRC defined relevant criteria for identifying relationships between banks and shadow banking entities, through which banks could be exposed to risks owing to an implicit obligation to provide financial support beyond their contractual obligations in financial stress, the so-called step-in risk. The proposals also include measurement instruments to be used to reflect this risk appropriately in the banks' prudential ratios. A public consultation on the proposals of the Basel Committee presented in the document "Identification and measurement of step-in risk" was opened on 17 December 2015. An impact study will be launched in the first quarter of 2016.

1.1.4. Basel III Regulatory Consistency Assessment Programme

Initiated in 2012, the Basel III Regulatory Consistency Assessment Programme (RCAP) aims at assessing and documenting to which extent domestic rules which result from the implementation of the Basel III framework comply with this framework. The objective is to ensure, through common rules, a level playing field for banking groups that act on a cross-border basis. The public document "Basel III Regulatory Consistency Assessment Programme (RCAP)" (October 2013) details the approach implemented by the Basel Committee to this effect.

While the Basel Committee has already published follow-up reports in the past, these reports mainly documented, based on self-reporting of Member States, the timely implementation of past frameworks. The RCAP is a peer review tool that allows the Basel Committee to make a critical, detailed and documented analysis of the level of consistency of the Basel standards and their implementation into national regulations.

In 2015, five new assessment reports were published which cover the regulatory framework of South Africa, Saudi Arabia, Hong Kong, India and Mexico.

For Luxembourg, which is host to many banks from other jurisdictions, including non-EU, the RCAP is a useful source of information helping assessing the regulatory framework applying to the parent banks. The CSSF uses this information notably when assessing intra-group derogations relating to large exposures in accordance with Article 56-1 of the law of 5 April 1993 on the financial sector.

1.1.5. Total Loss-Absorbing Capacity (TLAC)

The Financial Stability Board (FSB) was called upon by the G20 to cooperate with the Basel Committee to assess and develop proposals on the adequacy of the loss-absorbing capacity of the Global Systemically Important Banks (G-SIBs) when business continuity is jeopardised and thereby solving the Too-Big-To-Fail problem. To this end, and notably in order to avoid exposing public funds to loss, an additional capital requirement (TLAC) was introduced. The TLAC is designed to ensure the G-SIBs have sufficient loss-absorbing and recapitalisation capacity. In the event of a resolution, the critical functions as defined in the banks' resolution plans may thus continue without endangering financial stability.

Based on the work of the FSB, the Basel Committee contributed to developing principles governing the functioning of the TLAC, included in a term sheet published by the FSB. Moreover, the Basel Committee published a consultation in November 2015, ending on 12 February 2016, on the treatment of holdings of TLAC instruments by internationally active banks (G-SIBs and non G-SIBs). The Basel Committee proposes to deduct investments in TLAC from the banks' additional own funds (Tier 2). This approach is similar to the one already applied by banks to their investments in capital instruments. A TLAC Quantitative Impact Study on the financial system was also published.

1.1.6. Anti-Money Laundering Expert Group (AMLEG)

In 2015, the CSSF participated in the work of this group of experts in AML/CFT of the Basel Committee (cf. point 2.1.4. of Chapter XVI "Financial crime").

1.1.7. Accounting Experts Group (AEG)

The document "Guidance on Credit Risk and Accounting for Expected Credit Losses" of the Basel Committee, published on 18 December 2015, sets out supervisory expectations for banks relating to the practical implementation of the new expected loss accounting frameworks following the application of IFRS 9 "Financial Instruments". This guidance stresses the fundamental aspects of the new requirements and lays down the basic principles to observe in order to promote the development of sound models that integrate all the relevant hypotheses in credit loss assessment.

1.1.8. Joint Policy Development Group/Accounting Experts Group Task Force on Expected Loss Provisioning (TFP)

The CSSF participates in the work of this group which analyses the impact of the new accounting standards (switch from incurred losses models to expected losses models) on the prudential rules governing capital adequacy and proposes potential paths to the Policy Development Group.

1.2. International Organisation of Securities Commissions (IOSCO)

1.2.1. 40th IOSCO Annual Conference

The securities markets regulators, including the CSSF, and other members of the international financial community met in London from 14 to 18 June 2015, on the occasion of the 40th Annual Conference of IOSCO.

At this conference, IOSCO adopted, among other things, its Strategic Direction for 2015-2020. The Strategic Direction, which envisages that IOSCO will be the key global reference point for securities regulation, will be implemented through 43 initiatives covering the following six priority areas:

- research and identification of risks arising from securities markets;
- development of standards and guidance that are internationally recognised;
- monitoring and promotion of the implementation of the standards;
- capacity building according to the needs of the IOSCO members, particularly the members of the Growth and Emerging Markets Committee;
- information exchange and cooperation among supervisors;
- collaboration with other international bodies and organisations.

Discussions also covered increasing the resilience of market participants to cyber attacks, cross-border regulation, governance and audit standards, investor engagement in policy development and crowd-funding.

As regards asset management, the Board, which is the governing body of IOSCO, concluded that a full review of asset management activities and products in the broader global financial context should be the immediate focus in order to identify potential systemic risks and vulnerabilities. This review should take precedence over further work on methodologies for the identification of systemically important asset management entities.

IOSCO also continued to work on the IOSCO Multilateral Memorandum of Understanding (MMoU) by confirming its engagement to expand this instrument through the adoption of an enhanced and strengthened Multilateral Memorandum of Understanding (enhanced MMoU). Under this new MMoU, it will be possible, in the framework of international cooperation, to exchange reports drawn up by external auditors as well as phone or electronic records, to compel attendance for testimony and to freeze assets. At the end of the Annual Conference, the number of signatories of the MMoU amounted to 105.

The 41st IOSCO Annual Conference will be held in Lima from 8 to 12 May 2016.

1.2.2. Committee 1 on Issuer Accounting, Audit and Disclosure

On 30 July 2015, IOSCO published the final report "Thematic Review of the Implementation on the Timeliness and Frequency of Disclosure to Investors according to Principles 16 and 26 of the IOSCO Objectives and Principles of Securities Regulation". The analysis covers the disclosure of information, following particular events, by issuers of publicly traded securities and undertakings for collective investment in 37 jurisdictions.

On 9 November 2015, IOSCO published the final version of the report "Transparency of firms that audit public companies".

The Accounting Subcommittee (ASC) closely follows the activities of the IASB (International Accounting Standards Board), especially by analysing the exposure drafts and discussion papers issued by the IASB and submitting comment letters relating thereto.

The Audit Subcommittee (AuSC) follows the development of the auditing and independence standards issued by the IAASB (International Auditing and Assurance Standards Board) and the IESBA (International Ethics Standards Board for Accountants) of the IFAC (International Federation of Accountants).

1.2.3. Committee 5 on Investment Management

In 2015, the work of Committee 5, chaired by the Autorité des Marchés Financiers (AMF, France) covered, among other things, the following:

- 2015 Hedge Fund Survey;
- Non-Bank Non-Insurer Global Systemically Important Financial Institutions (NBNI SIFIs);
- Implication in international work regarding potential vulnerabilities in the asset management industry;
- Reducing Reliance on Credit Rating Agencies;
- Custody Institutions Safekeeping of Assets of CIS;
- CIS Fees and Expenses;
- Termination of CIS;
- Committee 5 contribution to work of the Assessment Committee (MMF Review and CIS Disclosure);
- Impact of the Revised Framework for Updating the IOSCO Principles and Methodology (developed by the Implementation Task Force Sub-Committee of the Assessment Committee).

Within the Committee 5, the CSSF notably participates in the working groups Good Practices for Custody Institutions Safekeeping of Assets of CIS, Framework for the Termination of CIS and Fees and Expenses for CIS.

Moreover, as a member of IOSCO, the CSSF joined, in 2015, Workstream 3 of the Standing Committee on Regulatory Supervision and Cooperation (SCR) of the Financial Stability Board (FSB) in the framework of the international work on potential structural vulnerabilities from asset management activities. This work focusses on:

- liquidity mismatch between fund investments and redemption terms and conditions for fund units;
- leverage within investment funds;
- operational risks and challenges in transferring investment mandates in stressed conditions;
- securities lending activities of investment funds and asset managers;
- potential vulnerabilities in relation to pension funds and sovereign wealth funds.

If necessary, the FSB will make recommendations in 2016 in order to mitigate the risks linked to the structural vulnerabilities identified in the context of this work. To this end, Workstream 3 works closely with Committee 5. Indeed, Committee 5 set up three subgroups to support the work of Workstream 3, namely SWG 1 - Data Gaps, SWG 2 - Liquidity mismatch and SWG 3 - Loan origination funds. The CSSF is a member of SWG 1 and SWG 3.

In 2015, IOSCO published the following documents (co-)prepared by Committee 5:

- the second consultation report on “Assessment Methodologies for Identifying Non-Bank Non-Insurer Global Systemically Important Financial Institutions”, published jointly with the Financial Stability Board (4 March 2015);
- the final report on “Good Practices on Reducing Reliance on Credit Rating Agencies (CRAs) in Asset Management” (8 June 2015);
- the consultation report concerning “CIS Fees and Expenses” (25 June 2015);
- the final report on the “Standards for the Custody of Collective Investment Schemes’ Assets” (10 November 2015);
- the “Report on the Third IOSCO Hedge Fund Survey” (11 December 2015);
- the final report on “Liquidity Management Tools in Collective Investment Schemes: Results from an IOSCO Committee 5 survey to members” (17 December 2015).

1.2.4. Committee 8 on Retail Investors

The CSSF also participates in the work of Committee 8 (cf. point 1.1.4. of Chapter XVII "Financial consumer protection").

1.2.5. Assessment Committee

The CSSF is a member of the IOSCO Assessment Committee and of the Implementation Task Force Sub-Committee, which met three times in 2015. Their objective is to encourage full, efficient and consistent implementation of the IOSCO principles and standards among its members. In this context, the committee carries out thematic reviews and country reviews with respect to IOSCO standards.

In 2015, the work of the Assessment Committee mainly allowed finalising a first country review as regards the level of implementation of IOSCO principles (report on Pakistan) and starting a second country review, namely on Trinidad and Tobago. The CSSF took part in both reviews.

The work of the Implementation Task Force concentrated on an analysis of potential changes to be made to the IOSCO Principles and Methodology in order to simplify and update them.

1.3. Enlarged Contact Group on the Supervision of Collective Investment Schemes

The CSSF attended the annual meeting of the Enlarged Contact Group on the Supervision of Collective Investment Schemes which was held from 28 to 30 October 2015 in Copenhagen. The following topics were discussed at the meeting: issues relating to supervision, conflicts of interests/code of conduct, legal topics, financial issues, reporting and disclosure, management and administration of investment funds and UCITS and other investment funds.

1.4. Others

In 2015, the CSSF participated in the work of the Institut Francophone de la Régulation Financière (IFREFI), the Groupe des Superviseurs Bancaires Francophones (GSBF, Group of francophone banking supervisors), the FSB Regional Consultative Group for Europe, the IT Supervisors Group[2] and the International Forum of Independent Audit Regulators (IFIAR).

Furthermore, within the context of the fight against money laundering and terrorist financing, the CSSF contributed, in 2015, to the work of the Financial Action Task Force (FATF) of the OECD and its subgroups and to the work of the Wolfsberg Group (cf. point 2.1.6. of Chapter XVI "Financial crime").

The CSSF also contributes to the work of several international groups whose objective is protecting financial consumers and spreading financial education (cf. point 1.1. of Chapter XVII "Protection of financial consumers").

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[2] Cf. point 1.3.2. of Chapter XII "Supervision of information systems".

2. LIST OF INTERNATIONAL GROUPS IN WHICH THE CSSF PARTICIPATES

At international level, the CSSF participates as a member in the work of the following committees, working groups and subgroups.

Basel Committee on Banking Supervision

- **Policy Development Group (PDG) and the subgroups**
  Leverage Ratio Working Group
  Risk Measurement Working Group
  Large Exposures Working Group
  Working Group on Capital
  Working Group on Liquidity
  Capital Monitoring Working Group
  QIS Working Group
  Task Force on Interest Rate Risk (TFIR)
  Task Force on Standardised Approaches (TFSA)
  Task Force on Scope of Regulatory Consolidation (TFRC)
  Task Force on Sovereign Risk
  Joint PDG/AEG Task Force on Expected Loss Provisioning (TFP)
- **Supervision and Implementation Group (SIG) and the subgroups**
  Working Group on Operational Risk
  Working Group on Pillar 2
  Working Group on Supervisory Colleges
  Corporate Governance
- **Accounting Experts Group (AEG) and the subgroup**
  Audit Subgroup
- **Anti-Money Laundering Expert Group (AMLEG)**

Financial Stability Board

- **European Regional Consultative Group**
- **Standing Committee on Supervisory and Regulatory Cooperation and the subgroup**
  Workstream on other Shadow Banking Entities (WS3)

International Organisation of Securities Commissions (IOSCO)

- **IOSCO Annual Conference**
- **IOSCO European Regional Conference**
- **IOSCO MMoU Monitoring Group**
- **Committee 1 on Issuer Accounting, Audit and Disclosure and the subgroups**
  Accounting Subcommittee
  Auditing Subcommittee
  IOSCO IFRS Database
- **Committee 5 on Investment Management**
- **Committee 8 on Retail Investors**
- **Assessment Committee and the subgroup**
  Implementation Task Force Subcommittee

Financial Action Task Force (FATF)

- **Plenary Meeting**
- **International Cooperation Review Group**
- **Policy Development Group**
- **Evaluations and Compliance Group**
- **Risks, Trends and Methods**
- **Global Network Coordination Group**

Organisation for Economic Co-operation and Development (OECD)

- **Working Group on Private Pensions**
- **Task Force on Financial Consumer Protection**
- **International Network on Financial Education (INFE)**

Others

- **Enlarged Contact Group on the Supervision Collective Investment Schemes**
- **IT Supervisors Group**
- **International Forum of Independent Audit Regulators (IFIAR) and the subgroup**
  Inspection Workshop Working group
- **Institut Francophone de la Régulation Financière (IFREFI)**
- **Groupe des Superviseurs Bancaires Francophones (GSBF)**
- **The Wolfsberg Group**
- **Financial Consumer Protection Network (FinCoNet) and the subgroup**
  Working Group 2 – Strengthen supervisory tools by identifying gaps and weaknesses
- **Child and Youth Finance International**

CHAPTER IV

FINANCIAL INNOVATION

FINANCIAL INNOVATION

The CSSF has always considered innovation as essential to the development of the financial services and to the financial sector. With this openness to innovation, Luxembourg became a platform for payment services and electronic money. This industry, which implemented in Luxembourg 10 years ago, generated and still generates a range of new products and services that are particularly innovative.

The financial technologies, commonly called FinTech, have become a reality as they reached all the financial activities and services. Not one day passes without noticing that the financial technologies impact or reinvent the structures of the financial markets, whether in the manner in which the capital is accessed and deployed, at the level of the means of communication of investors or in manner the financial services are used by consumers. New digital payment systems are put in place; virtual currencies completely based on open source models, data analysis and the solidarity economy appear. All these new models and products will rapidly impact the traditional financial markets.

Being a proactive supervisory authority with respect to innovation, the CSSF was, at the beginning of 2014, the first European supervisory authority to take a clear stand in favour of virtual currencies and their regulation. Since then, the Court of Justice of the European Union confirmed the CSSF's definition of virtual currencies in a ruling dated 22 October 2015. In addition, a press release of the EU Council highlighted the need for regulation of virtual currencies, particularly with respect to the requirements concerning the fight against money laundering and terrorist financing.

In order to foster innovation, several initiatives have been taken at national level.

• Grand-ducal Regulation of 5 August 2015 amending Grand-ducal Regulation of 1 February 2010 providing details on certain provisions of the law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended

The purpose of this Grand-ducal regulation is to keep a level playing field in the payments sector by introducing a simplified customer due diligence for payment transactions. Consequently, the professionals may reduce the identification measures and need not verify the identity of their customer and, where applicable, of the beneficial owner of the business relationship when they carry out online payment services not exceeding a unit amount of EUR 250. The regulation lays down in detail the conditions for the application and implementation of the simplified customer due diligence regime for these transactions.

The approach of the Grand-ducal regulation complies with the third and fourth AML/CFT Directives, as the relaxation of the due diligence obligation is provided for in the last subparagraph of Article 11(5) of the third Directive and in Annex II to the fourth Directive, as well as with the FATF recommendations of 2012.

• Opening up in relation to IT

The CSSF adopted a more open approach regarding IT outsourcing. Henceforth, the Luxembourg institutions may outsource their IT to an entity, either belonging to the group or not and either regulated or not, provided that the subcontractor has qualified staff and adequate means of control to manage the delegated functions.

• Identification through online video conference

Under certain conditions, the CSSF allows professionals of the financial sector to identify/verify the identity of their customer through video conference[1].

It is important to point out that the thoughts and the opening up always take place by taking into account any possible risks arising from these new technologies, whether these risks relate to consumer protection or to the stability of the financial sector. The CSSF's mission is to mitigate these risks at best and to consider adapting the existing financial regulation in accordance with the development of the financial markets.

The undertakings and persons wishing to establish themselves in Luxembourg to carry out an activity of the financial sector must obtain an authorisation from the Minister of Finance and are subject to the prudential supervision of the CSSF (Article 14 of the law of 5 April 1993 on the financial sector).

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[1] Cf. http://www.cssf.lu/fileadmin/files/LBC_FT/FAQ_LBCFT_VIDEO_IDENTIFICATION_080416.pdf.

Therefore, the FinTech that would like to establish themselves in Luxembourg in order to carry out an activity of the financial sector (as, for instance, the issuing of means of payments in the form of virtual or other currencies, the provision of payment services using virtual or other currencies, the creation of a market (platform) to trade virtual or other currencies) must define their business purpose and their activity in a sufficiently concrete and precise manner to allow the CSSF to determine for which status they need to receive the ministerial authorisation.

Throughout this process, the CSSF accompanies the FinTech and ensures, at the same time, to be technologically neutral in its regulatory approach. In order to meet these requirements, the CSSF carefully analyses any innovative project that is submitted to it and ensures, in particular, compliance with the AML/CFT and IT requirements. Together with the professionals, it also tries to find the business model adapted to the EU regulatory requirements and to the technological requirements inherent in these products, services or solutions.

Like other authorities, the CSSF does not defend the concept of regulatory sandbox. The financial sector being in essence an international centre and a platform in the single market through which one can easily and efficiently cover all the Member States, the CSSF deems it important to define, within the existing financial regulation, the activities exercised in the financial innovation sector. The advantage of this approach is to allow the professionals to benefit from the European passport to provide their services in all the other Member States. Consequently, the business model of the FinTech must address any legal insecurities in order to avoid that their products and services be questioned in other Member States. In this context, the CSSF accompanies the FinTech in order to find regulatory solutions adapted to their business model.

Some FinTech may provide their services without authorisation. These professionals do not directly carry out financial activities but provide the players of the financial sector with infrastructures or technical solutions with which the latter may provide financial services. Where this service provision does not allow the FinTech to handle confidential data and financial flows of customers and where they do not qualify as support PFS in accordance with Articles 29-1 to 29-6 of the law of 5 April 1993 on the financial sector, these FinTech are free to carry out their activities without the authorisation of the Minister of Finance and are not subject to the prudential supervision of the CSSF.

In order to know whether an authorisation is required, the CSSF encourages the FinTech to contact the division “Innovation and Payments” of the department “Innovation, payments, markets infrastructures and governance” of the CSSF or to send an email at innovation@cssf.lu.

CHAPTER V

SUPERVISION OF BANKS

1. DEVELOPMENTS IN THE BANKING SECTOR IN 2015

1.1. Major events in 2015

1.1.1. Single Supervisory Mechanism (SSM)

Since 4 November 2014, the direct supervision of significant banks has been carried out by the ECB. Less significant entities continue to be supervised directly by the CSSF, under the control of the ECB.

At the end of 2015, 59 banks established in Luxembourg were directly supervised by the ECB, either because they exceeded the criteria for being considered as significant entities (significant institutions - SI) at solo or consolidated level, or because they were part of a group considered significant. These banks represented 73.6% of the total assets of the Luxembourg banks.

Seventy-three banks were considered less significant (less significant institutions - LSI) and 11 banks were branches of banks whose registered office was established outside the EU and which did not fall within the SSM.

Supervision of significant banks is exercised by the Joint Supervisory Teams (JSTs) formed of staff members from the ECB and from the national competent authorities. The CSSF is taking part in 35 JSTs for as many banking groups. Forty-four CSSF agents (i.e. 21.2 full-time equivalent) are directly or indirectly (as support) involved in this supervisory framework.

Banks established in Luxembourg by category

SSM status	Number of banks	In % of assets
Significant banks - SI	43	60.8%
Branches of an SI	16	12.8%
High-priority less significant banks - High-priority LSI	5	5.1%
Less significant banks - LSI	62	14.7%
Branches of an LSI	6	0.2%
Outside the scope of SSM	11	6.3%
Total	**143**	**100.0%**

The national competent authorities remain responsible for the supervision of less significant entities and the ECB ensures quality checks thereof. In the context of these quality checks, the CSSF is required to send a certain number of ex ante or ex post notifications concerning the measures taken during the supervision of these entities. Moreover, the ECB endeavours to promote harmonisation of this supervision.

The SSM's supervisory approach is described in detail in the document "Guide to banking supervision"[1]. Moreover, the CSSF specified the entry point for various types of requests in Circular CSSF 14/596 on the communication regime under the SSM for significant entities and the repeal of the VISA procedure for the published annual accounts.

1.1.2. Single rulebook for banks

The EU introduced the Basel III standards by way of a single rulebook for the banking sector, which is composed of Directive 2013/36/EU (CRD IV) and Regulation (EU) No 575/2013 (CRR) applicable as of 1 January 2014. In May 2014, this single rulebook was supplemented by Directive 2014/59/EU establishing a European framework for the recovery and resolution of credit institutions and investment firms (BRRD).

[1] Weblink: https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssmguidebankingsupervision201411.en.pdf?404fd6cb61dbde0095c8722d5aff29cd. In this regard, see also the annual reports of the ECB published under https://www.ecb.europa.eu/pub/annual/html/index.en.html.

CRD IV, which was transposed into national law by the law of 23 July 2015, covers some areas regarding capital adequacy and it also includes new elements such as the strengthening of governance, provisions relating to sanctions and capital buffers.

The CRR covers, among others, the definition of own funds and regulatory capital requirements, the liquidity risk ratios as well as the leverage ratio. This regulation, the purpose of which is maximum harmonisation, is directly applicable to banks in the EU Member States. It does not require transposition into national law, thus avoiding discrepancies among Member States. Consequently, it replaces some of the provisions of the CSSF circulars, including Circular CSSF 06/273.

The BRRD, which was transposed into national law on 18 December 2015, covers all the stages of crisis management, from the preparation to its resolution and funding. It establishes a regime that provides authorities with a set of tools to intervene in a failing institution so as to ensure the continuity of its financial and economic functions, while minimising as much as possible the impact of its failure on the economy and financial system. In order to improve preparedness of crisis management, the BRRD provides for the preparation of recovery plans by the entities and resolution plans by the resolution authorities.

These European texts also provide for the obligation of the EBA to develop binding technical standards in order to define the manner in which some aspects (e.g. in the area of prudential reporting or recovery plans) will be implemented. Upon approval by the European Commission, these delegated regulations are directly applicable to banks and do not need to be transposed by the EU Member States. For example, regarding CRD IV and the CRR, the EBA already proposed 52 binding technical standards out of the 79 planned for the end of 2017. The European Commission adopted 45 out of the 52 proposed binding technical standards.

The EBA developed an interactive online tool allowing concrete visibility of the single rulebook by presenting CRD IV, the CRR and the BRRD and the corresponding delegated regulations, guidelines and standards issued by the EBA, as well as the related Q&As. The purpose is to create a common legal framework as well as a common culture and uniform supervisory practices throughout the EU.

1.1.3. Financial information requirements on an individual basis

As at 21 October 2015, the CSSF published the future requirements on financial information reporting on an individual basis in Circular CSSF 15/621 amending Circular CSSF 14/593 on the supervisory reporting requirements applicable to credit institutions. The requirements on financial information on an individual basis are indeed not covered by the scope of the CRR but are set by the national authorities.

The CSSF decided to apply the financial information reporting FINREP as laid down in Regulation (EU) No 680/2014 (FINREP/ITS) on an individual basis. These requirements take into account both the CSSF's own needs for the exercise of its functions as national supervisory authority and the requirements of Regulation (EU) No 2015/534 of the ECB of 17 March 2015 on reporting of supervisory financial information (ref.: ECB/2015/13).

All in all, the new financial information reporting on an individual basis has the following characteristics, based on the principle of proportionality:

- the level of information required (full, simplified extended or over-simplified) is adapted to the type of credit institution: significant entities or less significant entities;
- the date of the first application runs from 31 December 2015 until 30 June 2017 depending on the category of credit institution;
- in order to simplify the reporting requirements, the new financial information reporting on an individual basis must be submitted on a quarterly (or half-yearly or annual depending on the table) basis instead of the current monthly financial information reporting on an individual basis which was introduced in 2008; in addition, the deadlines for the transmission are aligned with the deadlines set out in Regulation (EU) No 680/2014, namely around six weeks instead of two weeks following the reference date;
- credit institution having branches abroad must only draw up one version of the FINREP/ITS information which must include the head office and the branches instead of the three versions under the current reporting framework: one version for the head office and the branches, one version only for the head office and one version for each branch.

1.2. Characteristics of the Luxembourg banking sector

The Luxembourg banking legislation provides for two types of banking licences, namely that of universal banks (139 institutions had this status on 31 December 2015) and that of banks issuing covered bonds (four institutions had this status on 31 December 2015). The main characteristics of the banks issuing covered bonds are the monopoly of covered bonds issuance and the prohibition to collect deposits from the public.

Depending on their legal status and geographical origin, the banks belong to one of the following three groups:

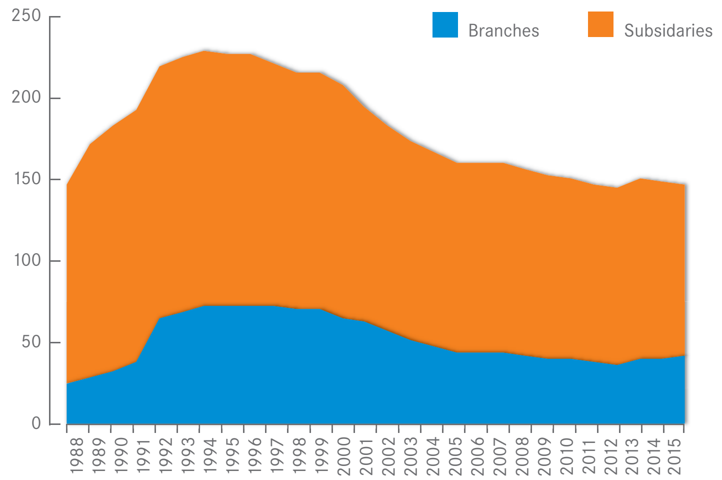
- banks incorporated under Luxembourg law (102 on 31 December 2015),
- branches of banks incorporated in an EU Member State or assimilated (30 on 31 December 2015),
- branches of banks incorporated in a non-EU Member State (11 on 31 December 2015).

Furthermore, there is one special case: the *caisses rurales* (13 on 31 December 2015) and their central establishment, Banque Raiffeisen, are to be considered as a single credit institution, according to the law on the financial sector.

1.3. Development in the number of credit institutions

With 143 entities authorised at the end of the financial year 2015, the number of banks dropped by one entity as compared to 31 December 2014 (144 entities).

Development in the number of banks established in Luxembourg



Year	Branches	Subsidiaries	Total
1988	24	119	143
1989	27	139	166
1990	31	146	177
1991	36	151	187
1992	62	151	213
1993	66	152	218
1994	70	152	222
1995	70	150	220
1996	70	151	221
1997	70	145	215
1998	69	140	209
1999	69	141	210
2000	63	139	202
2001	61	128	189
2002	55	122	177
2003	50	119	169
2004	46	116	162
2005	43	112	155
2006	42	114	156
2007	43	113	156
2008	41	111	152
2009	39	110	149
2010	38	109	147
2011	36	107	143
2012	35	106	141
2013	38	109	147
2014	39	105	144
2015	41	102	143

Five banks were withdrawn from the official list during the year:

- Argentabank Luxembourg S.A. — Cessation of activities on 1 January 2015.
- Banque LBLux S.A. — Voluntary winding-up on 31 March 2015.
- NORD/LB COVERED FINANCE BANK S.A. — Merger with Norddeutsche Landesbank Luxembourg S.A. on 31 May 2015.
- Frankfurter Volksbank International S.A. — Cessation of activities on 29 June 2015.
- Dexia LdG Banque S.A. — Cessation of activities on 1 July 2015.

Four new banks started their activities in 2015:

- Bank of Communications (Luxembourg) S.A. — 16 April 2015: the bank is of Chinese origin and active in corporate banking.
- China Merchants Bank Co., Limited Luxembourg Branch — 18 May 2015: the bank is of Chinese origin and active in corporate banking.
- Agricultural Bank of China (Luxembourg) S.A. — 18 June 2015: the bank is of Chinese origin and active in corporate banking.
- Agricultural Bank of China, Luxembourg Branch — 18 June 2015: the bank is of Chinese origin and active in corporate banking.

1.4. Development in banking employment[2]

As at 31 December 2015, employment at Luxembourg credit institutions amounted to 25,942 people compared to 25,963 people as at 31 December 2014 which is a slight decrease by 21 people on an annual basis.

Compared to the figures of December 2014, the distribution of employment according to men and women remains almost unchanged. However, an increase in the number of employees with an academic background higher than the "BAC+3" degree is noticeable (+5.3%) whereas employees whose education is equivalent or below the "BAC" degree declines (-4.9%).

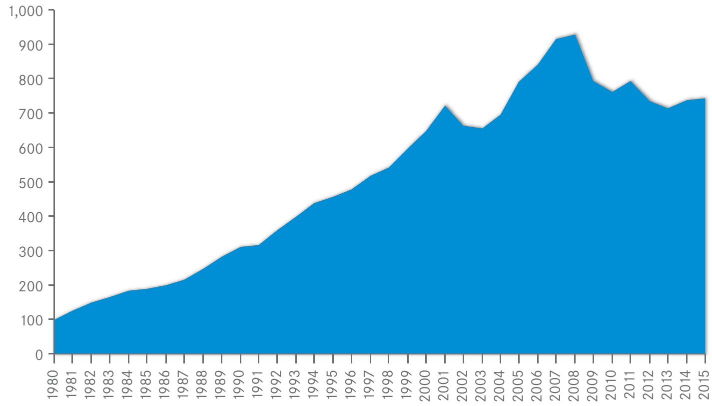
1.5. Development of balance sheet and off-balance sheet accounts

1.5.1. Balance sheet total of credit institutions

As at 31 December 2015, the total assets of credit institutions amounted to EUR 743.2 billion against EUR 737.2 billion as at 31 December 2014, representing an annual increase of 0.8%. Following the business decrease in 2013 (-2.9%), in 2012 (-7.3%) and in 2010 (-3.8%), the banking sector showed a slight upward trend as measured by the balance sheet total. This rise was shared by 63% of the financial centre's banks.

Development in the balance sheet total of credit institutions – in billion EUR

1980	97.10
1981	125.95
1982	148.41
1983	163.41
1984	181.73
1985	189.09
1986	198.49
1987	215.32
1988	246.36
1989	281.04
1990	309.37
1991	316.09
1992	357.56
1993	397.15
1994	438.01
1995	455.47
1996	477.37
1997	516.59
1998	540.89
1999	598.01
2000	647.63
2001	721.98
2002	662.70
2003	655.60
2004	695.36
2005	791.25
2006	839.57
2007	915.34
2008	929.45
2009	792.54
2010	762.32
2011	792.89
2012	734.77
2013	713.40
2014	737.21
2015	743.19[3]



[2] This data is based on a statistical reporting set up by the BCL in December 2014. In this respect, the collection of banking employment data has been entirely revised. Following the work on the quality of the data carried out by the BCL after the publication of the 2014 data, the figures of employment were revised. Consequently, discrepancies with the data published in the 2014 Annual Report may appear.

[3] Preliminary figure.

1.5.2. Development of the aggregated balance sheet structure

Apart from the steady increase in loans and advances to customers (+11.5%), the yearly development of the aggregated balance sheet on the assets side is mostly related to the regulatory development regarding liquidity. This is the case in particular for loans and advances to central banks and central governments which grew by EUR 45.4 billion (+139.9%). In return, loans and advances to credit institutions recorded a steep drop (-14.5%).

Loans and advances to credit institutions decreased by 14.5% over a year to EUR 296.8 billion at the end of December 2015. Due to this decline of EUR 50 billion over one year, loans and advances to credit institutions have fallen to the lowest level recorded since 12 years. This significant fall concerns mainly intra-group commitments of big international banking groups that have to comply with the new liquidity standard, namely the Liquidity Coverage Requirement (LCR), since 1 October 2015. Loans and advances to credit institutions remain however the most significant item of bank assets with 39.9% (against 47.0% in 2014).

Loans and advances to customers, which include corporates and retail customers, rose by 11.5% to EUR 188.6 billion at the end of 2015, against EUR 169.2 billion in 2014. Among these loans and advances, the exposures to retail customers, mainly from Luxembourg, rose by 10.6% over a year (+8.3% in 2014) to reach EUR 51.2 billion as at 31 December 2015. In 2015, loans and advances to corporates continued to grow with +15.8%, against +9.4% in 2014. As regards the structure of the balance sheet, loans and advances to customers represent 25.4% of the balance sheet total as at 31 December 2015 (against 23.0% as at 31 December 2014) and are hence an increasingly significant source of income for the Luxembourg banks.

Loans and advances to central banks and central governments amounted to EUR 77.9 billion, representing an increase of 139.9% year-on-year. This increase concerns the deposits with central banks whose amount tripled over a year to reach EUR 69.3 billion (against EUR 23.5 billion in 2014). This development is due to the fact that Luxembourg banks, subsidiaries of big international groups, are obliged to deposit their liquidity with the central banks following the decision of the ECB to no longer grant the waiver concerning the Liquidity Coverage Requirement (LCR) laid down in Article 8 of the CRR to these subsidiaries. The deposit with central banks is thus carried out at the expense of intra-group deposits which significantly declined during 2015. This development has further fragmented interbank liquidity flows since October 2015. It should be noted that exposures in the form of loans and advances to central administrations fell slightly to EUR 8.6 billion at the end of 2015, against EUR 9.0 billion in the previous year.

Fixed-income transferable securities, which represented over 92% of the total transferable securities, dropped by 3.2% during 2015. The positions in sovereign bonds greatly contributed to this drop with a decrease of 12.3% in 2015, against a growth of 23.0% in 2014. Investments of Luxembourg banks in bonds issued by credit institutions are up by 1.1% (+2.5% in 2014) whereas the positions in bonds issued by corporates severely dropped (-29.1%), continuing thus the downward trend of the last years (-12.4% in 2014 and -9.6% in 2013).

The portion of fixed-income transferable securities in the balance sheet total equals 19.5% (against 20.3% at the end of 2014). The sector-based composition of this portfolio continued to show mainly bank (43%) and government (36%) securities. With 36%, the portion of government securities in the composition of the portfolio decreased to reach a situation similar to that at the end of 2013 (35%).

On the liabilities side, **amounts owed to credit institutions**, mainly in the form of intra-group operations, dropped by 5.3% to EUR 268.3 billion at the end of December 2015. These amounts represented 36.1% of the Luxembourg banks' aggregated balance sheet total, against 38.4% at the end of 2014.

Amounts owed to customers, consisting of deposits made by companies, private customers and/or retail customers, as well as of assets held on accounts of investment funds, rose by 8.5% and reached EUR 324.6 billion as at 31 December 2015. As in the past, with a share of 43.7%, deposits from customers played a prominent role among the liabilities of the financial centre's banks and allowed the Luxembourg banking sector to easily fund its loans and advances to customers.

Amounts owed to central banks reached EUR 7.3 billion as at 31 December 2015. Even if there was an increase by 11.7% over a year, these amounts represented nevertheless only 1.0% of the aggregated liabilities.

Since 2012, the banks have been using less and less **debt represented by securities**. However, with -3.7% over a year, the drop in this item slowed down compared to 2014 (-6.2%). With a total of EUR 54.6 billion, they represented 7.3% of the aggregated liabilities as at 31 December 2015 (against 7.7% in 2014).

At the end of 2015, **equity** accounted for EUR 57.5 billion. With +0.8%, it only increased slightly compared to the significant rise of 10.9% in 2014 due to the reclassification of the AGDL provisions and the lump sum provisions following Circular CSSF 14/599. Equity represented 7.7% of the total balance sheet as at 31 December 2015.

Aggregate balance sheet total – in million EUR

ASSETS	2014	2015 (*)	Variation	LIABILITIES	2014	2015 (*)	Variation
Loans and advances to central banks and central governments	32,476	77,905	139.9%	Amounts owed to central banks	6,529	7,290	11.7%
Loans and advances to credit institutions	346,947	296,759	-14.5%	Amounts owed to credit institutions	283,355	268,348	-5.3%
Loans and advances to customers	169,200	188,585	11.5%	Amounts owed to customers	299,203	324,620	8.5%
Financial assets held for trading	11,926	10,001	-16.1%	Amounts owed represented by securities	56,696	54,587	-3.7%
Fixed-income transferable securities	149,486	144,718	-3.2%	Liabilities (other than deposits) held for trading	10,687	8,819	-17.5%
Variable-yield transferable securities	13,394	11,315	-15.5%	Provisions	3,547	3,545	-0.1%
Fixed assets and other assets	13,783	13,912	0.9%	Subordinated liabilities	6,976	4,970	-28.8%
				Other liabilities	13,157	13,481	2.5%
				Capital and reserves	57,062	57,536	0.8%
Total	**737,212**	**743,197**	**0.8%**	**Total**	**737,212**	**743,197**	**0.8%**

(*) Preliminary figures.

Structure of the aggregated balance sheet

ASSETS	2014	2015 (*)	LIABILITIES	2014	2015 (*)
Loans and advances to central banks and central governments	4.41%	10.48%	Amounts owed to central banks	0.89%	0.98%
Loans and advances to credit institutions	47.06%	39.93%	Amounts owed to credit institutions	38.44%	36.11%
Loans and advances to customers	22.95%	25.37%	Amounts owed to customers	40.59%	43.68%
Financial assets held for trading	1.62%	1.35%	Amounts owed represented by securities	7.69%	7.34%
Fixed-income transferable securities	20.28%	19.47%	Liabilities (other than deposits) held for trading	1.45%	1.19%
Variable-yield transferable securities	1.82%	1.52%	Provisions	0.48%	0.48%
Fixed assets and other assets	1.87%	1.87%	Subordinated liabilities	0.95%	0.67%
			Other liabilities	1.78%	1.81%
			Capital and reserves	7.74%	7.74%
Total	**100.00%**	**100.00%**	**Total**	**100.00%**	**100.00%**

(*) Preliminary figures.

1.5.3. Use of derivative financial instruments by credit institutions

Banks in the financial centre used derivative financial instruments for a total nominal amount of EUR 672.4 billion in 2015, representing a fall of EUR 19.3 billion over a year, i.e. -2.8%. The use of derivative instruments by credit institutions mainly takes place in the context of hedging of own positions and transactions on behalf of their clients. The use of derivative financial instruments fell only for derivative financial instruments linked to the exchange rate and for those linked to credit quality.

Notional amounts *(in billion EUR)*	**2014**	**2015 (*)**	**Variation**		**Structure**	
			in volume	**in %**	**2014**	**2015 (*)**
Transactions related to interest rate	167.4	181.4	14.0	8.4%	24.2%	27.0%
Transactions related to title deeds	21.3	23.8	2.5	11.6%	3.1%	3.5%
Transactions related to exchange rate	491.6	459.9	-31.7	-6.4%	71.1%	68.4%
Transactions related to credit quality	11.3	7.2	-4.0	-36.2%	1.6%	1.1%
Total	**691.6**	**672.4**	**-19.3**	**-2.8%**	**100.0%**	**100.0%**

(*) Preliminary figures.

1.5.4. Off-balance sheet

As at 31 December 2015, the incidental exposure of the Luxembourg banking sector through loan commitments and financial guarantees given amounted to EUR 154.6 billion, against EUR 125.2 billion at the end of 2014, which represented a 23.5% rise over a year. This upward trend was shared by the majority of the financial centre's banks.

The assets deposited by UCIs increased by 11.4% in 2015 (18.2% in 2014), whereas the other deposited assets increased by 9.4% in 2015 (8.5% in 2014). These rises reflect the dynamism of the Luxembourg investment fund sector as well as the development of the stock prices of certain assets in safe custody. With the implementation of the new financial information reporting as at 31 December 2015, the more detailed breakdown by counterparties of deposited assets is no longer available.

Assets deposited by customers as in the off-balance sheet - in billion EUR

	2014	**2015 (*)**	**Variation**	
			in volume	**in %**
Assets deposited by UCIs	3,174.4	3,535.8	361.4	11.4%
Other deposited assets	9,555.8	10,451.9	896.1	9.4%

(*) Preliminary figures.

1.6. Development in the profit and loss account

The profit and loss account of the Luxembourg banking sector showed a net result of EUR 3.987 million as at 31 December 2015, i.e. a drop of EUR 267 million (-6.3%) compared to 2014.

The trend of the profit and loss account in 2015 is mainly due to three combined effects:

- a rise of 4.9% of the banking income as a result of a general increase of all its components;
- a significant growth in general administrative expenses (+14.2%); and
- a doubling of provisions year-on-year.

Development in the profit and loss account – in million EUR

	2014	Relative share	2015 (*)	Relative share	Variation	
					in volume	in %
Interest-rate margin	4,066	39%	4,276	39%	210	5.2%
Net commissions received	4,101	39%	4,339	40%	239	5.8%
Other net income	2,217	21%	2,280	21%	63	2.8%
Banking income	**10,384**	**100%**	**10,895**	**100%**	**511**	**4.9%**
General expenses	-5,005	-48%	-5,432	-50%	-427	8.5%
of which: staff costs	*-2,624*	*-25%*	*-2,714*	*-25%*	*-90*	*3.4%*
of which: general administrative expenses	*-2,381*	*-23%*	*-2,718*	*-25%*	*-337*	*14.2%*
Profit before provisions	**5,379**	**52%**	**5,463**	**50%**	**84**	**1.6%**
Net creation of provisions	-327	-3%	-665	-6%	-338	103.5%
Tax	-799	-8%	-812	-7%	-13	1.6%
"Real" tax burden	*-649*		*-695*			
Net result for the financial year	**4,253**	**41%**	**3,987**	**37%**	**-267**	**-6.3%**

(*) Preliminary figures.

As far as income is concerned, the **interest-rate margin**, which amounted to EUR 4,276 million, rose by 5.2% over a year. This upward trend was shared by over half of the banks, representing 62% of the aggregated banking income of the financial centre. Whilst the improvement of the interest-rate margin was recorded in the context of a slight increase in volume of assets, its scale resulted mainly from specific factors relating to a limited number of credit institutions. It should be noted that this development occurred despite market conditions where intermediation margins remain at a very low, if not negative, level. Thus, the average interest-rate margin compared to the total volume of banking assets still remained well below the levels reached between 2010 and 2012. Irrespective of the positive development in 2015, the persistence of extremely low interest rates reduces the profitability of the intermediation activity significantly and poses a real challenge to banks in Luxembourg and in the other countries of the euro area. This phenomenon may speed up in the short run due to the banks' maturity transformation activity. In fact, the persistence of extremely low interest-rate levels will force the banks to increasingly replace maturing assets with assets characterised by conditions which are clearly more unfavourable, thus jeopardizing the future profitability of banks.

Net commissions received kept growing for the last four years. As a reminder, the net commissions received mainly result from asset management activities on behalf of private and institutional clients, including services provided to investment funds. The increase of net commissions received benefited from two combined effects: a market effect resulting from a stock market context which, despite increased volatility, remained rather favourable compared to the previous year and a volume effect due to the growing demand for financial products stemming from asset management and preferred to traditional rate products. With EUR 4,339 million (+5.8% over a year), this income now reached its all-time high. Allowing the mitigation of the concomitant reduction of the interest-rate margin, the increase of net commissions received over the last years shows the stabilising effect that is caused by a sound diversification of the banking activity in Luxembourg.

Other net income, an item that is very volatile in time and that mostly includes non-recurring effects generally registered by a limited number of banks, also improved but less than the two other sources of income. Thus, other net income increased by 2.8% over a year and reached EUR 2,280 million. It should be noted that, as from 2015, dividends received by credit institutions are grouped with the other net income[4].

[4] In order to better reflect the trends of the different income sources of banks, the dividends received have been reclassified from interest-rate margin to other net income. This reclassification appropriately reflects the existing relation between the assets valued at fair value and the distribution of relating dividends.

Total operating income, as measured by the banking income, amounted to EUR 10,895 million as at 31 December 2015. This increase of 4.9% over a year is supported by all the categories of banking income sources.

General expenses significantly increased by EUR 427 million (+8.5%) and reached EUR 5,432 million at the end of the year. This increase concerns mainly general administrative expenses (+14.2%) and, to a lesser extent, staff costs (+3.4%). The increase of general expenses was recorded in most banks of the financial centre which reflects, besides investments in technical infrastructures, additional charges to be borne by banks in order to comply with the continuously changing regulatory framework. The development of general expenses significantly mitigated the growth in banking income resulting in a **gross profit before provisions and taxes** slightly up by 1.6% on a yearly basis.

As at 31 December 2015, **net creation of provisions** reached EUR 665 million, i.e. a doubling compared to 2014. Due to a limited number of banks, this increase is attributable to reasons specific to each bank. In the past, this item was always characterised by a significant volatility (cf. table "Long-term development of profit and loss account - in million EUR" hereunder). It should be noted that the comprehensive assessment carried out by the ECB in 2014 and, to a lesser extent, in 2015, confirmed the high quality of assets held by Luxembourg banks.

Tax charges recorded in the 2015 profit and loss account amounted to EUR 812 million. This amount represents the overall booked tax charges, including taxes due in Luxembourg and abroad, without distinction between current and deferred taxes. Current taxes in Luxembourg on which the accounting calculation of the taxes due in Luxembourg for the financial year 2015 was based, reached EUR 695 million, against EUR 649 million in 2014.

Overall, the above-indicated factors taken as a whole resulted in 2015 in a net income decrease of 6.3% compared to last year. This downward trend was not shared by all the banks in the financial centre, as evidenced by 47% of the banks whose net results increased and which represent 49% of the aggregated banking income in 2015.

Long-term development of profit and loss account – in million EUR

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015 (*)
Interest-rate margin	3,327	3,848	4,595	5,792	5,807	4,761	4,960	4,671	4,281	4,066	4,276
Net commissions received	3,209	3,674	4,010	3,644	3,132	3,587	3,832	3,727	3,962	4,101	4,339
Other net income	1,718	3,278	2,371	1,001	1,614	1,201	76	1,401	2,213	2,217	2,280
Banking income	**8,255**	**10,800**	**10,976**	**10,437**	**10,553**	**9,549**	**8,868**	**9,800**	**10,455**	**10,384**	**10,895**
General expenses	-3,693	-3,981	-4,420	-4,560	-4,451	-4,609	-4,789	-4,994	-5,198	-5,005	-5,432
of which: staff costs	*-1,945*	*-2,160*	*-2,372*	*-2,461*	*-2,449*	*-2,497*	*-2,535*	*-2,622*	*-2,745*	*-2,624*	*-2,714*
of which: general administrative expenses	*-1,748*	*-1,821*	*-2,048*	*-2,099*	*-2,002*	*-2,112*	*-2,253*	*-2,372*	*-2,453*	*-2,381*	*-2,718*
Profit before provisions	**4,562**	**6,819**	**6,556**	**5,877**	**6,102**	**4,939**	**4,080**	**4,806**	**5,258**	**5,379**	**5,463**
Net creation of provisions	-296	-305	-1,038	-5,399	-3,242	-498	-1,572	-765	-865	-327	-665
Tax[5]	-768	-843	-780	-259	-804	-625	-18	-503	-762	-799	-812
"Real" tax burden				-654	-449	-599	-503	-544	-546	-649	-695
Net result for the financial year	**3,498**	**5,671**	**4,739**	**218**	**2,056**	**3,817**	**2,490**	**3,538**	**3,631**	**4,253**	**3,987**

(*) Preliminary figures.

[5] As from 1 January 2008, the prudential reporting is based on the IFRS standards. These standards allow, in particular, activating future tax charges by crediting the tax charges account. Due to these positive tax charges, there are, depending on the year, material deviations from the "real" tax burden which, based on the Lux-Gaap standards, is used to determine the basis for the calculation of the taxes due to the tax administration.

1.7. Solvency ratios

1.7.1. Legal framework

In accordance with Article 5 of CSSF Regulation N° 14-01 on the implementation of certain discretions of Regulation (EU) No 575/2013 and Article 92 of Regulation (EU) No 575/2013, the Luxembourg credit institutions have to observe, since 1 January 2014:

- a Common Equity Tier 1 capital ratio of 4.5%;
- a Tier 1 capital ratio of 6%; and
- a total capital ratio of 8%.

Besides the minimum own funds requirements as laid down in Article 92 of the CRR and the specific capital requirements pursuant to Article 53-1 of the law of 5 April 1993 on the financial sector (see also point 2.5. below), Luxembourg banks are also subject to capital buffers in accordance with Chapter 5 of Part III of the above-mentioned law. The CSSF required, based on CSSF Regulation N° 14-01, that the banks hold directly, as from 1 January 2014, a Common Equity Tier 1 capital conservation buffer equal to 2.5% of the total amount of their risk exposures, thus not allowing a phasing-in of this buffer until 2019. In addition, in CSSF Regulation N° 15-06 and in accordance with the opinion of the Systemic Risk Board[6], the CSSF designated six credit institutions as other systemically important institutions within the meaning of Article 59-3 of the law of 5 April 1993. As other systemically important institutions, these banks must hold additional capital buffers of 0.5% or 1%. These capital buffers must be phased in over three years as from 1 January 2016. Finally, the countercyclical buffer rate applicable to the relevant exposures located in Luxembourg is set at 0% in CSSF Regulation N° 15-04[7].

1.7.2. Solvency ratios

The total capital ratio for the financial centre was 20.7% as at 31 December 2015 which represents an increase compared to the ratio of 19.6% as at 31 December 2014[8]. Hence, it largely exceeds the minimum threshold of 8% and 10.5% (minimum threshold of 8% plus the capital conservation buffer of 2.5%), respectively.

Following the regulatory changes which occurred in 2014, the ratio continues to provide evidence of the high capitalisation level of the financial centre's banks. The impact of the Basel III Accord on Luxembourg banks highlighted the orientation toward high-quality capital instruments, as well as the orientation of their activities that protect them from non-anticipated negative regulatory impacts.

The Tier 1 capital ratio, whose numerator only includes own funds which absorb losses in going concern situations, was 20.0% as at 31 December 2015 (a rise compared to 18.5% at the end of 2014). The Common Equity Tier 1 capital ratio (CET1 ratio) was 19.9% as at 31 December 2015 (a rise compared to 18.4% at the end of 2014). The levels of the CET1 and Tier 1 capital ratios, which largely exceed the regulatory minima (including the capital conservation buffer) of 7% and 8.5% respectively, bear witness to the preponderance of the presence of high-quality capital items in the banking sector.

1.7.3. Elements of own funds

Aggregate own funds, eligible for complying with the minimum solvency requirements, amounted to EUR 47,600.8 million as at 31 December 2015. 96.1% of own funds are represented by the Common Equity Tier 1 capital. Additional Tier 1 elements (0.3%) and Tier 2 capital (3.6%) only play a minor part.

As regards the composition of Common Equity Tier 1 capital, the capital issued and the relating share premium represent a significant part of the eligible instruments. The level of issued capital (and share premium) remains relatively stable year-on-year. The capital increases of existing entities, as well as the equity of the institutions

[6] Cf. point 3. of this chapter.

[7] Cf. point 3. of this chapter.

[8] Please note that the figures of 2014 were updated in order to reflect the information received after the drawing-up of the CSSF Annual Report 2014, in particular following adjustments related to the new solvency reporting.

that decided to establish themselves in Luxembourg in 2015, were enough to largely offset the capital reduction of the five entities that stopped their activities during the year.

The retained earnings, the eligible results of the current year and the funds for general banking risks represent the other dominating part of own funds. This category of own funds increased in 2015, in particular following the hoarding of 2014 profits.

As in 2014, the provisions regarding deductions introduced by Regulation (EU) No 575/2013 have a significant impact. Under the effect of the deductions, Common Equity Tier 1 capital decreased by almost 12.5%. The deductions of intangible assets, the deductions for holdings in entities of the financial sector and the neutralisation of unrealised gains recognised as revaluation reserve accounted for around 72% of the total deductions to be made from Common Equity Tier 1 capital.

In line with the historical situation, the small proportion of additional Common Equity Tier 1 instruments (0.3%) and the limited number of banks that use this type of instrument underline the preference of the Luxembourg credit institutions for high-quality capital instruments.

The reduction of Tier 2 capital items is attributable to the anticipated redemption of Tier 2 capital items, to the non-renewal of Tier 2 capital instruments that fell due and to the non-eligibility of part of the instruments issued by the Luxembourg banks.

Elements of own funds

	2014		2015 (*)	
	Amount *(in million EUR)*	Relative share	Amount *(in million EUR)*	Relative share
Own funds	**46,296.6**	**100.0%**	**47,600.8**	**100.0%**
Tier 1 capital	**43,695.4**	**94.3%**	**45,893.7**	**96.4%**
Common Equity Tier 1 capital (CET1)	**43,537.3**	**94.0%**	**45,736.2**	**96.1%**
Capital instruments that qualify as CET1 capital	27,155.9		26,424.1	
Retained earnings, other reserves, funds for general banking risks	21,691.2		23,623.6	
Other accumulated comprehensive income	2,669.4		2,284.9	
Minority interests	25.7		0.3	
Adjustments of CET1 deriving from prudential filters	-98.2		-93.0	
(-) Intangible assets, goodwill and differed tax assets	-3,121.7		-2,115.3	
(-) Holdings in financial instruments of financial sector entities	-1,069.1		-940.0	
(-) Other deductions	-3,716.0		-3,448.1	
Additional Tier 1 capital (AT1)	**158.1**	**0.3%**	**157.5**	**0.3%**
Capital instruments that qualify as AT1 capital	158.1		157.5	
Other items that qualify as AT1 capital	0.0		0.0	
(-) Deductions from AT1 capital	0.0		0.0	
Tier 2 capital (T2)	**2,600.8**	**5.7%**	**1,707.0**	**3.6%**
Capital instruments and subordinated loans that qualify as T2 capital	2,553.0		1,667.2	
Other items that qualify as T2 capital	84.4		83.7	
(-) Deductions from T2 capital	-36.7		-43.8	

(*) Preliminary figures.

1.7.4. Risk exposure amounts

The risk exposure amounts fell by EUR 6,351.2 million between the end of 2014 and the end of 2015 to EUR 229,837.6 million (-2.7%). This development is mainly influenced by the reduction of risk-weighted exposure amounts for credit risk which dropped by EUR 6,792.8 million. On the other hand, the amount for operational risk increased by almost EUR 991.7 million year-on-year.

As regards the composition of risk exposure amounts, credit risk exposures continued to mobilise the highest risk-weighted exposure amounts, with 88.6% as at 31 December 2015. The capital charge for operational risk represented 9.7% at the end of the year (compared to 9.0% in the previous year). Owing to the activities carried out in the financial sector, the capital charge for market risks remains, as in the past, limited with 0.8% of the total risk exposure amounts. Capital charge for credit valuation adjustment (CVA), introduced by Regulation (EU) No 575/2013 as at 1 January 2014, still has a limited impact. Indeed, at the end of 2015, it represented 0.8% of the risk exposure amounts, against 0.9% at the end of 2014.

Given the methodological change to the calculation of the floor threshold for banks applying an advanced measurement method, such as the internal ratings-based approach for credit risk or the advanced measurement approach for operational risk, the "other capital requirements" only play a subordinated role, for the time being.

Risk exposure amounts

(in million EUR)	**2014**	**in %**	**2015 (*)**	**in %**
Total risk exposure amount	**236,188.8**	**100.0%**	**229,837.6**	**100.0%**
Risk-weighted credit risk, counterparty risk and dilution risks and free deliveries	210,319.5	89.0%	203,526.7	88.6%
of which: Standardised Approach (STA)	*162,898.7*	*69.0%*	*158,877.2*	*69.1%*
of which: Internal ratings-based approach (IRB)	*47,412.0*	*20.1%*	*44,647.0*	*19.4%*
Total clearing/settlement risk exposure amount	2.5	0.0%	0.5	0.0%
Total position risk, foreign-exchange risk and commodity risk exposure amount	2,224.4	0.9%	1,888.6	0.8%
Total operational risk exposure amount	21,359.7	9.0%	22,351.4	9.7%
Total credit valuation adjustment risk exposure amount	2,084.1	0.9%	1,816.4	0.8%
Other risk exposure amount	198.6	0.1%	254.1	0.1%

(*) Preliminary figures.

1.7.5. Calculation approaches implemented by the banks of the financial centre

For the calculation of capital requirements (Pillar 1), the CRR provides for flat-rate approaches, fully governed by regulatory parameters and internal approaches based on the banks' estimate of certain input parameters. The internal risk management models used for Pillar 1 purposes cover three categories of risks[9], namely:

- credit risk with models relating to the internal rating systems (internal ratings-based approach - IRB approach) as well as the internal model method (IMM) for the calculation of the exposure value with respect to counterparty credit risk[10];
- market risk, with "internal models" to cover general and specific market risk, including stress VaR as well as incremental default and migration risks for the trading book positions of the credit institution (incremental risk charge - IRC); and
- operational risk with the advanced measurement approach (AMA).

As regards the internal ratings-based approach, as at 31 December 2015, 10 banks are authorised to use the IRB approach regarding credit risk, seven of which have used advanced methods allowing not only own estimates of probabilities of default but also of the loss given default and/or of the conversion factors.

[9] Cf. also point 2.21. of this chapter.

[10] No bank established in Luxembourg has submitted so far an application file to the CSSF in order to use the internal model method (IMM).

Compared to 2014, the number of banks using the IRB approach in relation to credit risk decreased by three entities: two banks stopped their activities during the year and two banks merged, the bank created from this merger continued to use the IRB approach.

These 10 banks represented 37.4% of the balance sheet total of the financial centre as at 31 December 2015.

As regards the operational risk, 10 banks continued to be authorised to use the advanced measurement approach (AMA). The other banks used the basic indicator approach (70 banks) and the standardised approach (22 banks) to determine the capital requirements for operational risk.

As regards market risk, one bank of the financial centre used the internal ratings-based approach.

Basel III calculation methods implemented by the banks of the financial centre

	Number of banks
Credit risk	**102**
Standardised approach	92
Internal ratings-based approach	10
of which: foundation IRB approach	*3*
of which: advanced IRB approach	*7*
Operational risk	**102**
Basic indicator approach	70
Standardised approach	22
Advanced measurement approaches	10

1.7.6. Distribution of the solvency ratios

The high level of capitalisation, as shown by the respective aggregate solvency ratios, is also reflected at disaggregated level.

As regards the total capital ratio as at 31 December 2015, no bank was within the weaker capitalisation bands, i.e. below 10.5% but still above the regulatory minimum of 8% in accordance with Article 92 of the CRR[11]. However, it should be remembered that for banks whose ratio falls below 10.5%, restrictions in terms of bonus and dividend payments apply (Article 59-13 of the law of 5 April 1993 on the financial sector). The recommendation of the ECB (ref.: ECB/2015/49) on dividend distribution policies lies within the same context and addresses possible distribution of dividends based on the results of 2015.

As shown in the table below, all banks of the financial centre comply with the minimum thresholds. The distribution of the Tier 1 capital ratios and Common Equity Tier 1 capital ratios reflects the high-quality level of the elements composing the regulatory own funds of the stakeholders.

Distribution of the solvency ratios

Common Equity Tier 1 capital ratio (CET1)	Number of banks	Tier 1 capital ratio	Number of banks	Total capital adequacy ratio	Number of banks
0%-4.5%	0	<6%	0	<8%	0
4.5%-7%	0	6%-8.5%	0	8%-10.5%	0
7%-8%	0	8.5%-9%	0	10.5%-11%	1
8%-9%	0	9%-10%	1	11%-12%	3
9%-10%	1	10%-11%	3	12%-13%	4
>10%	102	>11%	99	>13%	95
Total	**103**		**103**		**103**

[11] The minimum threshold is 8%; the capital conservation buffer of 2.5% is added to that threshold.

1.8. Risks in the Luxembourg banking sector

In the following, the notion of risk refers to banking commitments or activities the nature of which may jeopardise the financial stability of certain individual credit institutions or of the entire banking sector in case these commitments or activities develop in an extremely adverse manner. Whereas such an adversity cannot be excluded, its imminence is generally difficult to predict. Hence, the CSSF does not venture to make predictions but ensures that banks duly take into account their inherent risks.

There are no risk-free banking activities. The purpose of a bank is to take and manage risks in a sound and prudent manner. Traditionally, the analysis of the risk structure in the Luxembourg banking sector reveals three risk concentrations which require particular management and monitoring by the relevant Luxembourg credit institutions, namely: sovereign risks, risks linked to the financing of residential real estate in Luxembourg and intra-group risks. The nature and the level of these “systemic” risks vary greatly among banks and according to the activities performed.

1.8.1. Sovereign risks

Sovereign risks are credit exposures to the public sector which include central, regional and local administrations.

For a majority of Luxembourg banks, the excess structural liquidity gathered within the context of wealth management activities is reinvested in sovereign debt. In theory, a sovereign State is able to meet its financial obligations by giving effect to its taxing rights to this end. The sovereign exposure thus appears as less risky and better suited for the conservative risk profile of Luxembourg banks. However, in the event of an opposite trend, like the sovereign debt crisis in Europe, an increased concentration on sovereign debtors may jeopardise the financial stability. Since 1 October 2015, Luxembourg banks have to comply with new liquidity requirements. The Liquidity Coverage Requirement requires the banks to hold enough “high-quality liquid assets”, among which sovereign debt securities. Hence, this requirement explains, at least in part, the holding of exposures to public sector by Luxembourg banks.

The sovereign risks incurred by the banks of the Luxembourg financial centre do not challenge the financial stability of the sector as a whole. However, for a limited number of banks taken individually, these exposures represent a more significant risk concentration. This is the case for banks issuing public-sector covered bonds whose business model corresponds precisely to public sector financing.

At the end of 2015, the aggregated exposure of Luxembourg banks to the public sector (except central banks) amounted to EUR 60.6 billion, which represents a decrease of 3.8% over one year. Excluding the developments related to mergers involving Luxembourg banks issuing covered bonds, exposure to the public sector grew by an annual rate of 1.2%. Geographically, there was a fall in exposure to the European public sector in favour of a reallocation to central governments of third countries, in particular the United States and Japan.

As at 31 December 2015, the main sovereign debtors of Luxembourg banks were as follows.

Exposures of Luxembourg banks to the public sector (without central banks)

Public sector	Exposures *(in million EUR)*
France	9,465
Italy	7,839
Germany	7,772
United States	6,007
Belgium	4,426
Luxembourg	4,115
Spain	3,290
United Kingdom	3,033
Austria	2,670
Netherlands	2,169
Canada	1,750
Japan	1,382

As regards solvency regulatory standards, Article 114(4) of Regulation (EU) No 575/2013 maintains, to date, a 0%-preferential risk weight assigned to exposures to central banks and central governments of Member States denominated and funded in the domestic currency of that central government. This treatment, the rationale of which has been undermined by the sovereign debt crisis in Europe, is now under review by the international community of banking regulators.

While regulations provide for specific treatments of sovereign risks, the CSSF would like to remind banks of their own risk assessment obligations. In this respect, banks must assess the risks they incur, their link to the bank's business model and the bank's ability to manage these risks and to face risk materialisation in an adverse situation. This ability is reflected in particular in the liquidity and capital buffers which banks hold in order to face the incurred risks and which must adequately reflect the concentration risk, for example the fact that the sovereign exposure represents a significant portion of the own funds.

1.8.2. Risks linked to residential real estate in Luxembourg

The local mortgage market is served only by a limited number of the financial centre's banks. The activity on this market remains sustained, as proven by the 9% increase in 2015 of the mortgage loans that these banks granted to their retail customers in Luxembourg. In 2014, this annual growth rate reached 6%.

In the past, granting mortgage loans generally presupposed an own contribution by the future buyer amounting to about 20% of the value of the real estate. Over the last 10 years, this practice has been replaced by more developed funding models which even provide for the full funding without any personal contribution. This practice raises for the bank a greater risk insofar as the reduction of the own contribution of the acquirer coincides with the decrease in the net value of the guarantee for the bank. Where this safety cushion disappears and in the event of default, the bank is protected against decreases in value of the mortgaged property only up to the capital requirements determined in accordance with the CRR.

In order to strengthen and uphold prudent policies as regards granting of mortgage credit in Luxembourg, the CSSF has introduced from 2013 new real estate financing rules via Circular CSSF 12/552. The information gathered in 2015 indicates that the loan-to-value ratio (LTV) for residential mortgage credits granted in 2015 by the main stakeholders in Luxembourg amounted to 67% on average. The average LTV covering all mortgage credits which are included in the Luxembourg banks' balance sheet amounts currently to 47%. In the current economic environment characterised by extremely low interest rates, the European authorities in charge of micro- and macroprudential supervision pay particular attention to real estate developments. The CSSF expects that the Luxembourg banks will continue to comply to the letter with the rules of Circular CSSF 12/552 on this matter. In accordance with point 221 of this circular, banks must in particular apply a reasonable security margin in order to cover an increase in interest rates.

The prudent policies as regards credit, focussed on the debtor's capacity to repay at maturity and on a prudent LTV ratio, constitute, at the time the credit is granted, an important and necessary mechanism for mitigating banking risks. In order to mitigate the losses that may occur during very adverse circumstances, the CRR requires that banks hold some capital buffers. For Luxembourg banks, these capital requirements, which are meant to cover losses in the event of a severe downturn in the real estate market, represent, on average, only between 1.5% (for banks using the internal ratings-based approach) and 4% (under the standardised approach for credit risk) of the total amount of their mortgage loans. Today, the use of the internal ratings-based approach tends to produce, in the CSSF's view, capital requirements that are too low for residential mortgage credits due to the weak defaults of that category of exposures since many years. In such a benign environment, internal models tend to underestimate the capital requirements although they are supposed to protect the banks in more adverse situations. The CSSF estimates that for each individual bank, the capital requirements should not represent less than 1.6% of the total amount of the mortgage credit, irrespective of the state of the real estate market.

Twice a year, the CSSF carries out targeted investigations covering exposures of banks to the Luxembourg real estate sector in order to assess the development of key prudential ratios (loan-to-value ratio and ratios measuring the debtor's capacity to repay) and property risks incurred by Luxembourg banks. It uses this data and that from COREP and FINREP to assess the need to take micro- and macroprudential measures. The CSSF expects credit institutions to have information systems that comply with the requirements of Circular CSSF 12/552 allowing them, in particular, to follow the development of the above-mentioned prudential ratios.

Considering the concentration of mortgage credits in the balance sheet of the main Luxembourg banks and the fact that this type of concentration is not covered by the capital requirements provided for in the CRR, these exposures are generally subject to specific and additional capital requirements pursuant to Articles 53-1 and 59-4 of the law of 5 April 1993 on the financial sector.

1.8.3. Risks linked to intra-group exposures

There are many subsidiaries of large international banking groups in the Luxembourg banking centre. Generally, these subsidiaries have no competence in investment banking in Luxembourg and the deposits they receive in the context of the wealth management services they provide are lent to the group. In this context, the CSSF normally accepts, in accordance with the intra-group exemption provided for in the European regulations governing large exposures, that a portion of these deposits are invested by a Luxembourg banking subsidiary with its parent company, exceeding the 25% limit of own funds usually applicable under the regulation on large exposures. This position is justified by inside information that the CSSF has on the risks associated with these investments, in particular through the colleges of supervisors of the banking groups in question, as compared to other types of investment which offer less visibility and potentially carry higher risks. With the establishment of the SSM, this visibility increased for major banking groups directly supervised by the ECB. Unlike the meetings held periodically by the colleges of supervisors, the supervision within the SSM is exercised through permanent structures, the Joint Supervisory Teams, in which the CSSF participates on a day-to-day basis.

The intra-group exemption is subject to requirements of sound and prudent management of intra-group exposures. The requirements to comply with in accordance with Article 56-1 of the law of 5 April 1993 on the financial sector concern the absence of disproportionate credit risks, the absence of significant liquidity risks in terms of maturity and currency mismatches and the absence of a disproportionate negative impact on the bank in Luxembourg in the event a resolution procedure is applied to the whole or to a part of the group to which the bank in Luxembourg belongs. For significant banks in Luxembourg, the ECB is the competent authority and decides, as such, to limit or revoke the intra-group exemption in accordance with Article 56-1(2) of the above-mentioned law. In general, it bases its decision on a preliminary opinion of the CSSF.

It should be noted that, in accordance with the CRR, all intra-group exposures, including those that benefit from an exemption under the rules of the CRR on large exposures, remain subject to the regulatory capital requirements.

1.8.4. Risks related to the activity of a depositary bank

The custody activity carried out by Luxembourg banks providing wealth management services amounts to around EUR 3,506 billion total assets. By adding the assets deposited in connection with payment and securities settlement transactions to the previous figure, the total amounts to EUR 16,440 billion.

The function of depositary bank is a key activity at the intersection of the banking and investment fund sector. Identifying these points of intersection is paramount when it comes to assessing the financial stability of the Luxembourg market as a whole and the risks of contagion between sectors in particular. Intersections which are important for the financial stability of banks include loan commitments to investment funds as well as deposits received from investment funds. On the asset side, when a bank grants a loan to an investment fund (or promises such a commitment), the assets of the fund serve as collateral. On the basis of a cautious over-collateralisation policy, banks are assured of recovering the full amounts lent. It should be remembered that the UCIs referred to in Part I of the law of 17 December 2010 relating to undertakings for collective investment, which represent the major portion of the assets under management, are required under Article 50(2)(a) of that law to comply with an upper indebtedness limit set at 10% of their assets. The result is de facto an over-collateralisation of the loans which would be granted by banks to these investment funds and, consequently, a very limited credit risk for the lending credit institution. It should also be noted that as regards loan commitments, no (depositary) bank has the legal obligation to support the investment funds whose assets have been deposited with such bank. Any contractual commitment in this regard must remain compatible with the legal requirements aiming to ensure the financial stability of the lending institution.

On 31 December 2015, the loans granted by the Luxembourg banks to investment funds amounted only to EUR 6.5 billion. On the liability side, the deposits of investment funds with Luxembourg banks are more significant. They amounted to EUR 117.1 billion which represents 3.3% of the investment funds' net assets. However, these are mostly "operational deposits" which investment funds maintain permanently with their depositary banks for their day-to-day operations. Due to their operational nature, these deposits are stable and even tend to increase in times of crisis as a result of the preference that investment fund managers have at those moment for liquidity. This was the case in particular during 2008 and 2009.

The deposits of investment funds represent approximatively half of the liabilities of Luxembourg depositary banks. These banks, which have no credit activity and, consequently, do not naturally reinvest these deposits, invest them generally without transforming the maturity and currency in their group as well as in third-party banks and central banks.

1.8.5. Profitability risk

Luxembourg banks do not escape the general pressure in Europe on their profitability owing to historically low interest rates. Even though the development of the 2015 profit and loss account reflects the rise in the interest-rate margin of the banks of the Luxembourg financial centre (EUR 4.3 billion in December 2015 against EUR 4.1 billion in December 2014), the level of the interest-rate margin remains close to the historic minimum of the last 10 years.

The banks of the Luxembourg financial centre, mostly subsidiaries of international groups, have, in general, excess liquidity positions owing to substantial deposits linked to wealth management activities. In general, the excess liquidity is lent to the parent company or invested as high-quality sovereign debt, with now insignificant yields.

The profitability is also eroded by the steady rise in general administrative expenses. It should be pointed out that a large part of these expenses is related to the compliance with the new laws and regulations developed by international institutions and the adaptation of the IT systems to the stringent requirements regarding regulatory data and reports. Furthermore, the functioning of the SSM generates additional costs for the banks of the Luxembourg financial centre. Small and medium-sized banks are the most concerned by this increase of general administrative expenses, despite the principle of proportionality provided for in EU regulations.

1.8.6. Other risks

As early as 2012, the General Board of the European Systemic Risk Board (ESRB) had adopted a recommendation on funding of credit institutions (ref.: ESRB/2012/2). This recommendation requires that the supervisory authorities strengthen their assessment of the funding and liquidity risks incurred by credit institutions as well as that of their funding risk management, with a particular attention to the feasibility of the funding plans, innovative funding instruments and uninsured deposit-like financial instruments which are sold to retail customers.

Moreover, the ESRB recommends to the supervisory authorities to monitor the asset encumbrance and to banks to implement policies and procedures to manage this encumbrance risk. The latter sub-recommendation was transposed in Luxembourg through the update, on 24 November 2014, of Circular CSSF 12/522 on central administration, internal governance and risk management.

In 2015, two quarterly reportings were introduced to this end: a reporting on funding plans and a reporting on asset encumbrance.

Based on the analyses carried out by the CSSF in accordance with the requirements of the ESRB, the funding plans received for significant banks (within the meaning of the SSM Regulation) that are group head in Luxembourg, do not provide for any reduction but for an increase in loans to counterparties located in Luxembourg.

Moreover, the analyses carried out by the ECB confirm that there are no specific negative impacts for the Luxembourg economy arising from the funding plans of other significant banks (within the meaning of the SSM Regulation) located in Luxembourg.

As regards asset encumbrance, it should be borne in mind that the level of asset encumbrance is low for credit institutions in Luxembourg. Only eight out of 143 banks have an “asset encumbrance” ratio exceeding 15%. These banks are thus subject to enhanced reporting requirements.

1.9. International presence of Luxembourg banks

Freedom to provide services within the EU/EEA as at 31 December 2015

Country	Luxembourg banks providing services in the EU/EEA	EU/EEA banks providing services in Luxembourg
Austria	47	29
Belgium	66	23
Bulgaria	28	-
Croatia	10	-
Cyprus	30	3
Czech Republic	29	-
Denmark	50	8
Estonia	28	2
Finland	49	7
France	74	76
Germany	69	64
Gibraltar	-	4
Greece	47	2
Hungary	29	9
Iceland	9	3
Ireland	44	32
Italy	61	13
Latvia	29	7
Liechtenstein	11	7
Lithuania	30	1
Malta	32	11
Netherlands	58	27
Norway	25	2
Poland	35	1
Portugal	53	7
Romania	31	-
Slovakia	26	1
Slovenia	28	-
Spain	57	9
Sweden	48	8
United Kingdom	63	79
Total number of notifications	**1,196**	**435**
Total number of banks concerned	**83**	**435**

Branches established in the EU/EEA as at 31 December 2015

Country	Branches of Luxembourg banks established in the EU/EEA	Branches of EU/EEA banks established in Luxembourg
Austria	2	-
Belgium	12	1
Cyprus	1	1
Denmark	2	-
France	8	3
Germany	4	13
Greece	1	-
Ireland	4	-
Italy	8	-
Netherlands	5	1
Poland	2	-
Portugal	3	2
Spain	10	1
Sweden	3	2
United Kingdom	7	6
Total	**72**	**30**

2. PRUDENTIAL SUPERVISORY PRACTICE

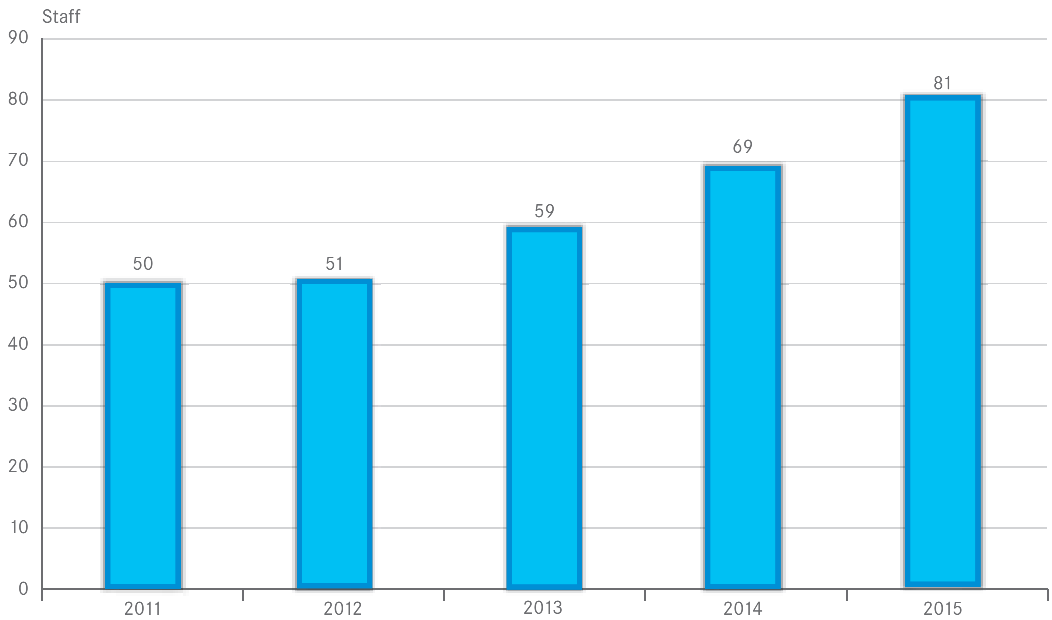
2.1. Purpose of prudential supervision

It is commonly admitted that the purpose of the prudential supervision of banks is to maintain financial stability and protect the public's savings, i.e. to preserve the non-professional customers' deposits. This objective is an obligation of means, not of results. Prudential supervision is not an absolute guarantee against bank failures involving losses for depositors.

2.2. Organisation of the supervision

The prudential supervision of banks is mainly carried out by the department "Supervision of banks" of the CSSF. The staff of this department grew significantly over the last five years as a result of the increase in volume of work, of the regulatory complexity and of the institutional complexity.

Development in staff members of the department "Supervision of banks"



Thus, over the last years, the EU legislator introduced a lot of complex regulations (BRRD, EMIR, MiFID II, CSDR, AIFMD, UCITS V, Remuneration, COREP, Governance, SREP, etc.) that require more supervisory resources. In addition, the legislator often required strict formality, that includes deadlines to observe, resulting obviously in the need for extra resources.

The introduction of the SSM did not reduce the need for resources at the CSSF. On the contrary, a significant boost in these resources was needed in order to comply with the methods and formal processes of the SSM.

The department "Supervision of banks" consists of 10 divisions, seven of which are in charge of direct supervision of banks and three are in charge of horizontal topics.

Each of the seven divisions in charge of direct supervision of banks has a team of analysts whose main task is to monitor the banks' risks. Among the analysts and the heads of division, 28 agents are members of JSTs.

A separate division is in charge of managing quantitative risks and deals with topics such as validation and follow-up of internal models, development of supervisory methodologies, stress tests, analysis of complex business models, implementation of reporting, governance and regulations on solvency and liquidity. The specialists of these different areas also provide support to analysts.

Another division is in charge of non-quantitative topics such as MiFID, EMIR, recovery plans, quality control, regulatory monitoring and depositary bank function.

A third division is in charge of fit and proper and qualified holdings procedures as well as of other horizontal processes of the SSM.

Moreover, an agent is responsible for drawing up statistics and deals with IT questions and a legal expert is responsible for authorisation files and enforcement.

2.3. Monitoring of quantitative standards

In order to ensure financial stability and risk spreading, credit institutions must observe the following quantitative standards:

- a minimum share capital;
- capital ratios (a Common Equity Tier 1 capital ratio (CET1 ratio), a Tier 1 capital ratio and a total capital ratio);

- a limitation of risk concentration to a single debtor or a group of associated debtors;
- a liquidity ratio;
- a limitation of qualifying holdings;
- a reference limit set at 20% of own funds for non-trading book interest rate risk (cf. point 2.7. below).

The CSSF monitors compliance with these standards and follows the banks' activities by means of a reporting harmonised at European level. The reporting includes information on:

- the capital requirements;
- the financial information (balance sheet, profit and loss accounts and relating detailed tables);
- the losses stemming from lending collateralised by immovable property;
- large exposures;
- the leverage ratio;
- asset encumbrance;
- the liquidity coverage requirements; and
- the net stable funding requirements.

The CSSF also requires periodic tables on, among other things, the liquidity ratio, the transferable securities, the participating interests and shares in affiliated undertakings, and tables with descriptive information on the supervised entity.

Within the scope of monitoring compliance with large exposure limits, the CSSF intervened 11 times in writing in 2015 (idem in 2014), notably to inform that the maximum level of large exposures had been exceeded and to request the bank concerned to provide information on the measures it intended to take in order to bring the commitments back within the regulatory limits.

The sanctions imposed by the CSSF on Luxembourg banks for non-compliance with the regulatory provisions are described in Chapter XIV "Instruments of supervision".

2.4. Monitoring of qualitative standards

The CSSF relies on the following instruments to assess the quality of the banks' organisation:

- analytical reports prepared by the *réviseurs d'entreprises* (statutory auditors);
- management letters and similar reports prepared by the *réviseurs d'entreprises*;
- on-site inspections at the banks' premises by the CSSF agents;
- reports prepared by the banks' internal auditors;
- compliance reports;
- ICAAP reports.

All these reports are analysed according to a methodology laid down in the CSSF's internal procedures. The CSSF's response depends on the seriousness of the problem raised and whether it is repetitive in nature. It varies from simple monitoring of the problem based on reports, through the preparation of deficiency letters, to convening the bank's management or on-site inspections undertaken by the CSSF agents. Where necessary, the CSSF may use its formal powers of injunction, suspension and sanction.

During 2015, the CSSF sent 205 deficiency letters to banks based on shortcomings in terms of organisation or due to the exercise of the activities.

The CSSF intervened 73 times with respect to quality deficiencies of internal reports, notably ICAAP reports. As regards the ICAAP, the CSSF requested a more precise description of:

- the stress tests and their inclusion in the day-to-day management;
- the management of concentration risk, including the indirect concentrations resulting from risk mitigation techniques;
- the plans for the management of capital and liquidity crises, and
- the definition of risk appetite.

These subjects are generally dealt with in the ICAAP report, but their description does not always adequately reflect the specificity of the business model of banks and all inherent risks.

The sanctions imposed by the CSSF on banks for non-compliance with the regulatory provisions are described in Chapter XIV "Instruments of supervision".

2.5. Supervisory review process

The prudential supervision of Luxembourg banks is based on a central process called Supervisory Review and Evaluation Process (SREP). The SREP aims to assess the capacity of a credit institution to manage and support risks it incurs and its compliance with banking regulations.

The SREP, as defined in CRD IV and in the EBA Guidelines 2014/13, organises the whole supervisory review and evaluation around the following components:

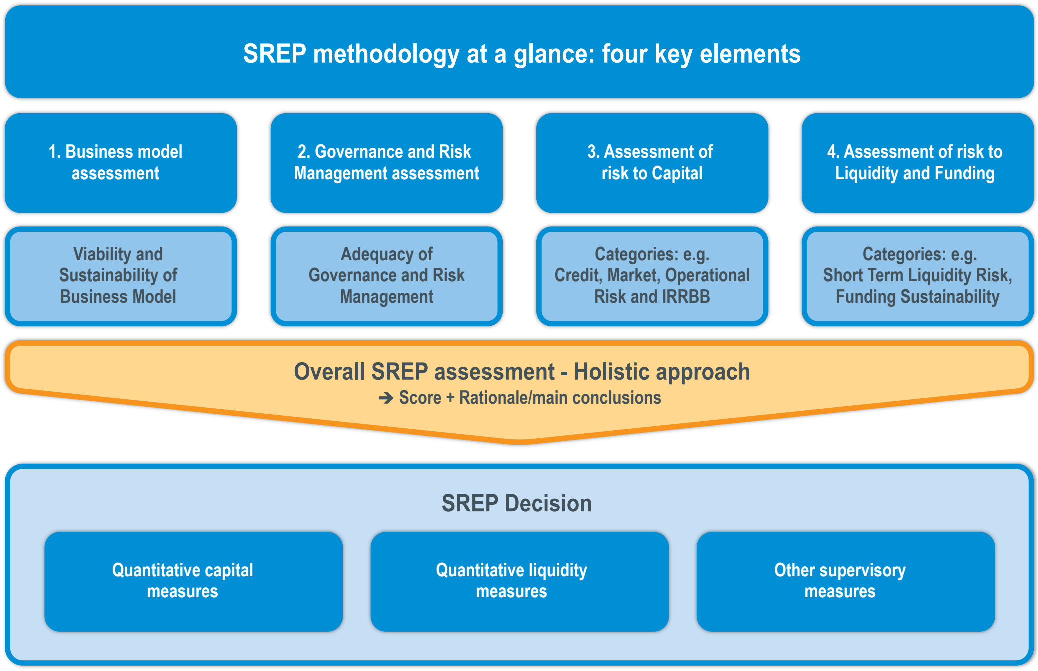
- business model;
- internal governance and internal control arrangements;
- capital adequacy to cover the risks incurred; and
- adequacy of liquidity resources to cover the risks incurred.

In Luxembourg, the SREP is codified in Article 21 of CSSF Regulation N° 15-02 relating to the supervisory review and evaluation process that applies to CRR institutions.

Based on the EBA guidelines, the ECB implemented, via its guide to supervision, a SREP methodology within the SSM applicable to the direct supervision of significant banks[12]. This process is outlined as follows.

[12] For further details, please read the document "SSM SREP Methodology booklet", https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm_srep_methodology_booklet.en.pdf?ec5a4a5740304d98431618aed8a18861.

SREP Methodology



The evaluation of the four topics is carried out via three different perspectives (3 Blocks). Block 1 represents a risk assessment system, a rather quantitative element, which evaluates the risks and the relevant internal controls. This system is largely defined through a series of risk indicators automatically scored, then validated or adjusted using expert judgement.

Unlike Block 1 which represents the perspective of the supervisory authority, Block 2 comprises the bank's internal perspective via the analysis of the Internal Capital Adequacy Assessment Process (ICAAP) and the Internal Liquidity Adequacy Assessment Process (ILAAP). This analysis aims to quantify the credit institution's need for capital and liquidity having regard to the risks incurred. In order to carry out these analyses based on quality ICAAP and ILAAP, the information provided to the supervisory authorities should be more detailed. In this context, the EBA launched, in December 2015, a consultation on the new Guidelines on ICAAP and ILAAP and, on 8 January 2016, the ECB sent a letter to significant banks which specifies the expectations in this matter.

Block 3 aims to include a forward-looking perspective in the SREP. The results of the stress tests carried out by banks internally as well as the results of the supervisory stress tests carried out by the EBA and the ECB are analysed under this block and are reflected in the results of the SREP.

The results and the final scoring of the SREP are based on the assessment of four elements, according to the three above-mentioned blocks, by considering also the macro-economic environment, the capacity of the banks to comply with the requirements of CRD IV/CRR and the peer comparison considerations. The final scoring should reflect the overall assessment of the viability of the banks.

For the 2015 SREP of significant banks, under the direct supervision of the ECB, the overall requirements of CET 1 capital, except capital buffers covering systemic risk, amounted to about 9.9% on average. These requirements increased by about 50 basis points (bps) over a year, 30 bps of which are due to Pillar 2 requirements and about 20 bps result from the phasing-in of capital buffers. In 2015, the members of the JSTs from 19 countries and 26 national authorities prepared together the SREP decisions for 120 significant banking groups, directly supervised by the ECB, according to a common procedure and methodology for the SSM.

The supervision of less significant banks established in Luxembourg as well as the supervision of branches of banks whose registered office is located outside the EU remains under the CSSF's responsibility. The SREP methodology applied by the CSSF continuously developed with the changes of EU directives and regulations as well as with the EBA guidelines published in this matter. Based on the premise that there is no ready-made mathematical formula which allows predicting the financial stability of a bank, the CSSF's approach focusses more on the competence and analysis of the supervisors who monitor the banks every day. This approach will need to evolve. Indeed, the SSM Regulation lays down in Article 6(5)(a) that, as far as less significant banks are concerned, the ECB must specify the arrangements according to which the national competent authorities must fulfil their supervisory tasks. In this context, the ECB started to develop minimum harmonised SREP standards with the national authorities. These standards will be based on a proportional application of the methodology used for the supervision of significant banks.

For risks which would impact own funds or liquidity and which would not be sufficiently mitigated by capital and liquidity requirements provided for in the CRR, Article 53-1 of the law of 5 April 1993 on the financial sector allows the competent authorities to impose specific capital and liquidity requirements. The other weaknesses are generally subject to further qualitative measures related to the strengthening of the internal control framework as defined in Circular CSSF 12/552.

2.6. Supervision of liquidity

One of the characteristics of the Luxembourg financial centre is that the majority of banks carry out wealth management activities or provide services to investment funds. The deposits linked to these activities allow the banks to ensure their own refinancing, the surplus being invested in securities portfolios or deposited with the group. A minority of banks has a net need for liquidity due to their credit activities; this need is refinanced either autonomously or by using group resources.

Overall, the banks enjoyed a comfortable liquidity situation. The CSSF did not note fundamental changes in this respect during 2015, marked, in particular, by the entry into force of the minimum threshold of 60% of the Liquidity Coverage Requirement (LCR) on 1 October 2015.

During the months prior to the introduction of the LCR, many banks adjusted their investment strategies in favour of "high-quality liquid assets" that the regulation accepts under short-term liquidity risk mitigation. For a great number of banks, this compliance was a painful experience since they expected to benefit from the exemption provided for in Article 8 of the CRR. However, the ECB chose not to allow these exemptions for significant banks. Consequently, Luxembourg banks, unprepared, had to deposit large amounts of liquidity with the BCL in order to comply with the LCR regulations.

In the first two months of the introduction of the LCR, the CSSF was confronted with 10 excesses of the minimum threshold of 60%. These excesses are mainly due to late adjustments of the daily follow-up strategies and tools of banks. On 31 December 2015, no excess was recorded and the LCR average of the Luxembourg banks and non-EU branches amounted to 225%.

The Luxembourg regulatory framework which governs the CSSF supervision in relation to liquidity is now laid down in three CSSF circulars, one European regulation and one Commission delegated regulation:

- Circulars CSSF 07/301 and CSSF 12/552 which lay down the main guiding principles for sound risk management;
- Circular CSSF 09/403 which sets out the qualitative requirements with regard to a sound liquidity risk management;
- Regulation (EU) No 575/2013 (CRR), Part Six of which lays down the liquidity coverage requirements as well as a stable funding requirement and organises the collection of data relating to these two requirements;
- Commission Delegated Regulation (EU) 2015/61 which sets out the specific arrangements for the calculation of the general liquidity coverage requirements (LCR) as provided for in the CRR.

The CRR, together with the Commission Implementing Regulation (EU) No 680/2014 (ITS on supervisory reporting), are the legal basis of the prudential reporting on liquidity based on which banks are required to report in detail the elements that compose the new liquidity ratios LCR and NSFR (Net Stable Funding Requirements). Since this reporting does not allow the correct determination of the LCR according to the provisions of Commission Delegated Regulation (EU) 2015/61, the EBA proposed new implementing technical standards on LCR reporting. As the European Commission needs to approve the proposal, these templates will become applicable only in the second half of 2016. In order to cover the transitional period until the implementation of the new reporting templates, the CSSF continues the specific inquiry with the Luxembourg banks in order to obtain, on a monthly basis, information on the evolution of the major components of the LCR.

Moreover, under Article 415(3)(b) of the CRR, the EBA developed Additional Liquidity Monitoring Metrics for banks. These prudential tools will allow the competent authorities to have a full view of the credit institutions' liquidity risk profile. Whereas the EBA suggested to implement additional tools for 1 July 2015, the European Commission has not yet approved the corresponding technical standards.

As regards banks that fall within the CSSF's supervision, the CSSF supervises and controls the liquidity situation and the compliance with the above-mentioned circulars by combining two complementary approaches. The first consists of analysing the liquidity situation through legal reporting tables, information about bank management and self-assessments to be provided in the context of ICAAP reports which must include an assessment on the materiality, the management and the mitigation of the liquidity risk. The second approach complements the first with on-site inspections related to liquidity in order to fully comprehend the situation and management of the credit institutions' liquidity risk. As regards significant banks, the monitoring of liquidity complies with the ECB procedures and is carried out by the JSTs of the ECB.

The permanent supervision of liquidity risk of banks belonging to cross-border banking groups at EU level is integrated in the joint supervisory process of the colleges of supervisors. In this regard, an individual analysis of the liquidity situation of the banks is made within the SREP framework, before taking a joint decision on the adequacy of liquidity management and liquidity reserves of credit institutions. Within the SSM, this process is internalised in the JSTs which perform the prudential controls of the significant banks on a day-to-day basis.

As far as the organisation of prudential supervision in Luxembourg is concerned, the Luxembourg legislator chose to confer upon the BCL a role of complementary monitoring in relation to liquidity based on its function as provider of liquidity to the banking sector. Given the number of employees the BCL dedicated to this area and following an implied arrangement between the BCL and the CSSF, the BCL carries out most of the CRD IV/CRR tasks in relation to liquidity for the most significant Luxembourg banks which remain under direct national supervision pursuant to the SSM Regulation. The CSSF, in its capacity as competent authority on the national level within the meaning of CRD IV/CRR, gathers the results of this monitoring to include them in the SREP.

2.7. Supervision of interest rate risk according to Circular CSSF 08/338

In Luxembourg, the diversification of the traditional banking activity, by means of private banking and investment fund services, entails that the interest rate risk as a whole is less marked. Moreover, the wide range of available interest rate risk hedging instruments allows reducing this risk efficiently. On the other hand, the instruments concerned could be used to take on higher interest rate risk positions.

Circular CSSF 08/338 on the implementation of a stress test to assess the interest rate risk arising from non-trading book activities requires banks to submit, on a half-yearly basis, the results of a simulation of interest rate changes to the CSSF (stress test). On the basis of these results, the CSSF analyses, in accordance with Article 30(4) of CSSF Regulation N° 15-02 relating to the supervisory review and evaluation process, to what extent the interest rate risk is likely to result in a decline of the institutions' economic value.

The CSSF analyses the results of these stress tests based on a ratio whose numerator is the result of the simulation of interest rate changes according to Circular CSSF 08/338 and whose denominator is determined by the own funds defined in Article 72 of the CRR. This ratio measures the percentage of own funds mobilised through the (unrealised) value losses resulting from an adverse change in interest rates. According to the above-mentioned Article 30(4), the CSSF must take measures should this ratio fall below -20%. Such measures aim to ensure that the own funds of an institution remain adequate with respect to its overall risk situation, which includes in particular non-trading book interest rate risk. It should be borne in mind that the non-trading book interest rate risk is not subject to a capital requirement according to the CRR, as opposed to the interest rate risk inherent in the trading book portfolio.

The analysis of the stress test results according to Circular CSSF 08/338 as at 31 December 2014 and 30 June 2015 confirmed that the Luxembourg banking sector as a whole is only moderately exposed to structural interest rate risk. Indeed, average assessment ratios amounted to -4.1% on a stand-alone basis and to -5.4% on a consolidated basis as at 30 June 2015. The impact of an immediate 2% rise in overall interest rates would cut the intrinsic value of the financial centre's banks only by about 5.4% of their own funds.

On 30 June 2015, the structural interest rate risk, on a stand-alone basis, slightly increased compared to the results as at 31 December 2014 where the average ratio was -3.9%. As far as dispersion of results is concerned, 70% of the banks of the financial centre had a ratio higher than or equal to -5% and only 4.6% of the banks had a ratio of less than -15% as at 30 June 2015. The average assessment ratios, on a consolidated basis, amounted to -4.3% as at 31 December 2014. Moreover, the dispersion showed that 59% of the banks had a ratio above -5% and 9% of the banks had a ratio below -15% as at 30 June 2015. No bank in the financial centre had an outlier ratio below the threshold of -20%.

In order to supplement its analyses, the CSSF made three on-site inspections in 2015 on the implementation of Circular CSSF 08/338. The purpose of these inspections was to check and verify on site the management of non-trading book interest rate risks. All the inspected banks had high ratios, indicating a possible risk in relation to own funds, and the CSSF wanted to know the reasons thereof. In 2016, the CSSF will follow up on the elements to be improved, identified during its inspections. The ECB carried out an on-site inspection at a significant bank which, in accordance with the SSM Regulation, is under its direct supervision.

Supervision of the interest rate risk according to Circular CSSF 08/338 did not lead the CSSF to adopt specific prudential measures in 2015.

Finally, it should be noted that the EBA published new guidelines on the management of interest rate risk arising from non-trading activities (ref.: EBA/GL/2015/08). These guidelines will be reflected in Circulars CSSF 08/338 and CSSF 12/552. Circular CSSF 08/338 will continue to describe the calculation methods of the standard stress test whereas the guidelines on sound management of interest rate risk will be included in Circular CSSF 12/552.

2.8. Supervision of operational risk

As regards supervision of operational risk, the CSSF's action focusses on two major elements: (1) regulatory requirements and best practices and (2) measurement of operational risk and determination of capital needs deriving from it.

In 2015, multidisciplinary teams which include members of the department "On-site inspection" and the division "Risks" of the department "Supervision of banks" carried out several inspections in relation to operational risk excluding the AMA approach. The focus was on the organisation of the operational risk management framework, the definition and monitoring of risk appetite, the quality of the database of incidents, the internal reporting and mapping of risks, the relevance of the stress tests in place, the regularity of the business continuity plan tests and the control of risks related to outsourcing. Lastly, specific controls on the monitoring of the use of AMA models were carried out during 2015.

As regards the measurement of operational risk and the determination of capital needs deriving therefrom, a distinction must be made first between the approaches allowed by the CRR with respect to capital requirements (Pillar 1), then between regulatory (Pillar 1) and internal (Pillar 2) perspectives.

As far as the approaches provided for in the CRR under Pillar 1 are concerned, there are the "simple" approaches, the parameters of which are all laid down in the CRR, and an "advanced" approach called AMA. In the simpler approaches, the capital requirements result from a mechanical calculation, based on key indicators relating to profit and loss accounts. In the AMA approach, the capital requirements with respect to operational risk are based on the banks' own estimates. Whereas the prudential controls of simpler approaches may easily be carried out based on the assessment of the plausibility of the reported results, the internal AMA models require more extensive prudential analyses in accordance with Article 24 of CSSF Regulation N° 15-02 relating to the supervisory review and evaluation process. These controls are described under point 2.21. below.

With regard to the estimate of internal capital allocated to the operational risk, the CSSF expects that this capital matches the functioning and business and risk profile of the bank. These analyses must be reflected in the ICAAP as provided for in Article 18 of CSSF Regulation N° 15-02 relating to the supervisory review and evaluation process. Stress tests and reverse stress tests must be able to confirm the adequate level of own funds for the operational risk, in accordance with an approach that is proportionate to each bank. For banks which adopt an AMA approach, the internal capital arising from the ICAAP should, in general, exceed the regulatory capital requirements determined on the basis of an AMA model of the group, due to a lesser risk diversification at the local level alone.

Finally, it should be noted that the conduct risks, among which the sale of inadequate products, the manipulation of reference rates and the resulting costs of claims and fines, as well as the increasing risks related to information and communication technology (ICT) with respect to cyber attacks, continue to be a part of key operational risks in the view of the supervisory authorities. The CSSF expects an irreproachable ethical approach in relation to conduct risk by the Luxembourg bankers which respects and protects the reputation of the Luxembourg financial centre.

2.9. Cooperation with other authorities

Besides the institutionalised cooperation in Joint Supervisory Teams and colleges (cf. point 2.20. below), the CSSF works closely with the foreign supervisory authorities within the context of the consultations provided for by the European directives and in all circumstances in which cooperation is needed. Cooperation generally takes place in the form of requests for advice, information or assistance initiated or received by the CSSF. In this context, the CSSF sent 52 letters to supervisory authorities in 2015.

The CSSF also cooperates with the national judicial and law enforcement authorities in accordance with Article 2 of the law of 23 December 1998 establishing a financial sector supervisory commission (Commission de surveillance du secteur financier) and Article 9-1 of the law of 12 November 2004 on the fight against money laundering and terrorist financing. Moreover, within the context of the assessment of the professional standing conditions to be complied with by the persons called upon to form part of the authorised management or the Board of Directors of a bank, the CSSF refers to the State Prosecutor's office of the *Tribunal d'Arrondissement* (District Court) of Luxembourg and to the Grand-ducal police.

2.10. Intervention in commercial policies

Following the crisis of 2008, the powers of the CSSF regarding the intervention in the commercial policy were enhanced. Within the process of prudential supervision laid down in Circular CSSF 07/301, the CSSF also requires banks to maintain a sound relation between their risk exposures and their capacity to bear these risks. As indicated in point 2.5. above, Article 98(1)(c) of CRD IV includes the control and assessment of the banks' business model in the scope of application of the SRP. This analysis aims to establish the viable and sustainable nature of the business model.

During 2015, the CSSF intervened seven times (10 times in 2014) to require actions to be taken such as restricting the payment of dividends, reducing risks, setting a maximum risk framework, covering risks through dedicated own funds or increasing the level of own funds.

2.11. Long form reports

The long form report drawn up by the *réviseur d'entreprises* contributes to the assessment of the quality of the organisation and of the exposure to the different risks of credit institutions. The CSSF requires, on a yearly basis, a long form report from every Luxembourg credit institution as well as from Luxembourg branches of non-EU credit institutions. Furthermore, the credit institutions supervised on a consolidated basis are required to submit, on a yearly basis, a consolidated long form report and individual long form reports for each subsidiary included in the consolidation and carrying out an activity of the financial sector.

The CSSF examines the individual and consolidated long form reports drawn up by the *réviseurs d'entreprises agréés* (approved statutory auditors) as well as the long form reports of Luxembourg banks' subsidiaries. It takes these conclusions into account for the overall assessment of the supervised institution's situation. Where appropriate, the CSSF intervenes within the institution.

2.12. Cooperation with the *réviseurs d'entreprises*

Article 54 of the law of 5 April 1993 on the financial sector governs the relationship between the CSSF and the *réviseurs d'entreprises*. All the reports prepared by the *réviseurs d'entreprises* in connection with the audits of accounting documents are to be communicated to the CSSF by the supervised professionals.

Furthermore, the *réviseurs d'entreprises* are required by law to promptly inform the CSSF of any serious findings, defined more specifically under Article 54(3) of the aforementioned law, which have come to their attention in the course of their duties.

The CSSF regularly meets representatives of the main audit firms in order to discuss topics relating to the audit work in banks.

2.13. On-site inspections

The yearly programme of inspections to be carried out by CSSF agents is drawn up at the beginning of the year. This programme is based on the assessment of risks of the different credit institutions. On-site inspections generally follow standard inspection procedures, in the form of discussions with the people responsible, the assessment of procedures and the verification of files and systems.

For banks under the direct supervision of the ECB, the programme of inspections is drawn up by the ECB which takes into account the opinion of the JSTs (which include CSSF agents). These inspections are carried out according to the SSM methodology by teams usually composed of agents of several authorities (the ECB and national authorities).

Detailed explanations on on-site inspections are provided in Chapter XIV "Instruments of supervision".

2.14. Management letters

Management letters drawn up by the *réviseurs d'entreprises* for the attention of the banks' management are an important source of information on the quality of the credit institutions' organisation. The CSSF analysed these management letters in which the external auditors list, in particular, the internal control system weaknesses identified during their audit.

2.15. Meetings

The CSSF attaches particular importance to meetings with bank managers in order to discuss the course of business as well as any issues. It also requires prompt notification by the banks if a serious problem arises. These meetings include "structured dialogues" through which the CSSF presents to the authorised bank managers the results and prudential measures arising from its assessment of the financial soundness and the risks of the bank.

In 2015, 185 meetings were held between CSSF's representatives and bank managers (228 in 2014). Moreover, 44 meetings with, among others, *réviseurs d'entreprises*, foreign authorities, the BCL, applicants for the establishment of a bank, rating agencies or supranational organisations took place on the CSSF's premises in 2015.

The decrease of the number of meetings is related to the introduction of the SSM. A certain number of meetings with significant banks are now held directly by the ECB.

2.16. Specific audits

Article 54(2) of the law of 5 April 1993 on the financial sector allows the CSSF to require a *réviseur d'entreprises* to conduct an audit on a specific subject in a given institution. In 2015, the CSSF made use of this right three times, against one in 2014.

2.17. Internal audit and compliance reports

The CSSF takes the work of the internal audit into account when assessing the quality of the organisation and the risk management, by analysing the summary report drawn up by the internal auditor on an annual basis, as well as the report of the Compliance officer. It requests, where relevant, specific reports from the internal audit in order to obtain more detailed information on certain subjects.

2.18. Supervision on a consolidated basis

As at 31 December 2015, 20 Luxembourg-incorporated banks (21 in 2014), as well as three Luxembourg-incorporated financial holding companies (idem in 2014) were supervised by the CSSF on a consolidated basis.

Thirteen of these 20 banks are part of banking groups considered as significant and their supervision, including the consolidated supervision, is exercised by the ECB, and in particular by the JSTs that have been set up in the framework of the SSM. The consolidated supervision of the other seven banks, considered as less significant according to the criteria laid down in the SSM Framework Regulation, continue to be under the supervision of the CSSF, under the control of the ECB.

Likewise, one of the three financial holding companies is now subject to the consolidated supervision of the ECB while the other two remain under the consolidated supervision of the CSSF.

The conditions governing submission to a consolidated supervision, the scope, content and means of supervision on a consolidated basis are specified in Chapter 2, Title II of Part I of Regulation (EU) No 575/2013. The practical arrangements for implementing rules governing supervision on a consolidated basis are laid down in Circular IML 96/125.

In accordance with the new European regulations, the main prudential standards and norms to be complied with by an institution or a financial holding company at a consolidated level concern:

- consolidated own funds;
- observance of the consolidated solvency ratios;
- large exposure control requirements on a consolidated basis;
- arrangements concerning exposures to transferred credit risk;
- consolidated liquidity;
- consolidated leverage ratio;
- information to be published (Pillar 3).

For those entities that remain subject to its consolidated supervision, the CSSF pays special attention to the "group head" function set up at the Luxembourg institution under its consolidated supervision. It takes a particular interest in the way the Luxembourg parent company communicates its policies and strategies to its subsidiaries as well as in the controls set up at the Luxembourg parent undertaking in order to monitor the organisation and activities of the subsidiaries, and their exposures.

The means available to the CSSF to exercise its supervision on a consolidated basis are manifold:

- The CSSF requires periodic reports reflecting the financial situation and the consolidated risks of a group subject to its consolidated supervision.

- Pursuant to Circular CSSF 07/301, the ICAAP report must provide an assessment of the consolidated capital adequacy in relation to the risks taken by the group or sub-group. Part of this report concentrates on the consolidated risk profile of the group or sub-group subject to the consolidated supervision.
- Circular CSSF 12/552 on the central administration, internal governance and risk management applies to a banking group, i.e. the entire group represented by the parent undertaking and the legal entities attached thereto. Thus, the internal control functions (risk, compliance and internal audit) which are in place at group level must also include, in their reports to be submitted annually to the CSSF, the aspects which concern more specifically consolidated entities or risks.
- The reports prepared by the external auditors represent another source of information. Circular CSSF 01/27 on practical rules regarding the mission of the *réviseur d'entreprises* requires that a consolidated long form report of a group subject to the consolidated supervision of the CSSF is drawn up. The purpose of this consolidated report is to provide the CSSF with an overview of the group's situation and to provide guidance on the risk management and structures of the group.
- The CSSF requires, moreover, an individual long form report to be drawn up for each major subsidiary.
- The CSSF's information is supplemented by contacts, exchange of letters and meetings with supervisory authorities of the subsidiaries' host countries. Within the scope of its supervision on a consolidated basis, the CSSF expects to obtain systematically, from the banks and financial holding companies subject to consolidated supervision, information on any intervention of the host country authorities with the subsidiaries, where these interventions concern non-compliance with domestic regulations and aspects regarding organisation or risks of these subsidiaries.
- As regards groups with an important network of subsidiaries, the CSSF follows the development of the financial situation and the risks of the subsidiaries included in the consolidated supervision by holding regular meetings with the management of the credit institution or of the financial holding company under its consolidated supervision.
- The CSSF performs on-site inspections that cover, on the one hand, the manner in which the parent company establishes its policies and implements its strategies within the subsidiaries and, on the other hand, the follow-up applied to the subsidiaries.

2.19. Supplementary supervision of financial conglomerates

A group qualifies as financial conglomerate if it includes at least one important regulated entity within the banking sector or investment services sector as well as one important entity within the insurance sector. In accordance with Directive 2002/87/EC on financial conglomerates, as amended by Directive 2011/89/EC, a supplementary supervision of these groups must be exercised.

The ECB assumes the role of coordinator of this supplementary supervision of a financial conglomerate, in accordance with the criteria defined in the European directive, where a banking group is considered as significant. For banks and banking groups considered as less significant, the CSSF assumes, in accordance with Chapter 3b, Part III of the law of 5 April 1993 on the financial sector, the role of coordinator of the supplementary supervision and is thus the authority responsible for the coordination and exercise of the additional supervision of the financial conglomerate.

The ECB's or the CSSF's supplementary supervision of financial conglomerates does not have any incidence on the sectoral prudential supervision by the relevant competent authorities, both on the individual and consolidated level.

As things stand, the practical consequences of these provisions for Luxembourg credit institutions and investment firms are limited. Indeed, the CSSF has not, at this stage, identified any financial conglomerate for which it should exercise the role of coordinator of this supplementary supervision.

2.20. International cooperation in banking supervision

2.20.1. Supervisory colleges

The implementation of the SSM did not make the supervisory colleges entirely unnecessary and they continue to be in place at national level for less significant banks.

This cooperation between competent European authorities is governed by Articles 112 to 118 of Directive 2013/36/EU. This cooperation may also extend to non-European authorities. These articles require intensive cooperation between the competent authorities of cross-border banking groups and strive towards a more centralised and harmonised supervision of large cross-border groups at EU level via, among others, the establishment of colleges of supervisors for these cross-border groups.

In 2015, the CSSF organised three colleges of supervisors for the supervision of banking groups for which it exercises an ultimate consolidated supervision at European level (Quilvest Wealth Management S.A., EFG Investment (Luxembourg) S.A. and Banque Havilland S.A.).

As a large number of banking groups are present in the Luxembourg financial centre via subsidiaries which, on the one hand, are subject to the supervision of the CSSF on an individual basis and, on the other hand, belong to the scope of consolidated supervision carried out by their home authorities, the CSSF participates, as host supervisor, in many colleges of supervisory authorities set up for these banking groups. In 2015, the CSSF participated in 32 meetings of colleges of supervisors, among which four colleges of supervisors organised by the supervisory authorities from non-EEA countries, which concerned in total 19 banking groups.

The establishment and functioning of the colleges are based on written agreements (Memorandum of Understanding, MoU) and written coordination and cooperation arrangements (WCCA) signed between the different authorities participating in the colleges. The WCCAs, as initiated by Commission Implementing Regulation (EU) 2016/99 of 16 October 2015 laying down implementing technical standards with regard to determining the operational functioning of the colleges of supervisors will progressively replace the existing MoUs. In 2015, 37 MoUs (47 in 2014) were in force and the CSSF, as host authority, was party to four WCCAs. It should be noted that not all colleges of supervisors necessarily meet physically or hold conference calls. In these cases, the tasks of the colleges of supervisors are carried out through letters or emails.

Since 2011, the EBA has contributed to promoting the establishment of colleges of supervisors and controls their effective, efficient and consistent functioning. To this end, it is a full member of the colleges.

The objectives of the colleges of supervisory authorities are mainly the Joint Risk Assessment and the Joint Capital Decision. Since 2014, the colleges are also required to give their opinion on the adequacy of the institutions' liquidity. They must achieve a joint assessment of the financial situation, the organisation and the risks of banking groups carrying out cross-border activities and of their individual banking subsidiaries. To that end, the different authorities which are members of the colleges provide the authorities in charge of the consolidated supervision (home supervisor) with their risk assessment. The latter aggregate the information received by taking into account the entities established in their own country. Based on this Joint Risk Assessment, the colleges assess the capital adequacy of the banking groups and their subsidiaries with regard to the incurred risks, as well as their liquidity situation. The colleges then draw up a Joint Decision on Capital and Liquidity which either confirms the adequacy or imposes capital surcharges that the banking groups and/or their subsidiaries must comply with at a consolidated and/or individual level. These Joint Decisions on Capital and Liquidity, which state the motivations underpinning the decision, are formally transmitted to the banking groups and their subsidiaries.

Furthermore, the colleges aim at promoting the joint missions carried out by the authorities from different countries participating in the colleges, as well as the delegation of work between authorities.

In order to improve the functioning of the colleges of supervisors, the EBA drew up regulatory technical standards on the functioning of colleges of supervisors (Commission Delegated Regulations (EU) 2016/98 and (EU) 2016/99).

2.20.2. Joint Supervisory Teams (JSTs)

By way of Regulation (EU) No 468/2014 of 16 April 2014 establishing the framework for cooperation within the SSM between the ECB and national competent authorities and with national designated authorities (SSM Framework Regulation), the supervision of significant entities is entrusted with the Joint Supervisory Teams (Articles 3 to 6).

The JSTs are composed of staff members from the ECB as well as from the national competent authorities. An ECB staff member must act as coordinator of the JST. The coordinator must be assisted by sub-coordinators designated by the national competent authorities among the JST members, in case the national competent authorities appoint more than one staff member to the team. The CSSF is currently member of the JSTs of 31 significant entities.

In 2015, 30 CSSF agents participated in 122 JST meetings. The topics discussed during these meetings concerned the practical organisation of the supervision, the drawing-up of Joint Decisions on Capital and Liquidity, including the general situation of the risks incurred by banks, the thematic reviews, the monitoring templates and the on-site inspections of entities directly supervised by the ECB.

2.21. Review of risk management models

The risk management models used by banks in the context of prudential rules on solvency cover the models eligible for the calculation of the regulatory capital requirements (Pillar 1 models) and the models which may be used for the calculation of internal capital requirements (economic capital models or Pillar 2 models).

The risk management models used under Pillar 1 are regulated by the CRR and CRD IV. They require prior authorisation and are subject to a regular control as laid down in Articles 23 and 24 of CSSF Regulation N° 15-02 relating to the supervisory review and evaluation process that applies to CRR institutions. In contrast, the models used under Pillar 2 are not subject to an explicit authorisation procedure on the part of the authorities. The purpose of the review of Pillar 2 models lies with the more general and less prescriptive assessment of the internal governance and the sound risk management.

Since the Luxembourg banks that use internal risk management models are mainly significant institutions within the meaning of the SSM Regulation and, consequently, are subject to direct banking supervision by the ECB, the review process of these models is carried out at the initiative and under the responsibility of the ECB but, generally, with a significant contribution of the CSSF.

In 2015, reviews of the risk management models concerned mainly Pillar 1 models. Their use in Luxembourg is concentrated in the areas of credit risk and operational risk.

Regarding credit risk, the ECB had four on-site inspections carried out at Luxembourg banks by using internal risk management models, called “internal ratings-based” (IRB) models, in 2015. These inspections, which were under the authority of a head of mission of the CSSF and which included, among others, CSSF agents, were linked to changes of internal models requiring permission, in accordance with Commission Delegated Regulation (EU) No 529/2014 of 12 March 2014. With the implementation of the SSM, these inspections are now governed by common processes and procedures of the ECB’s banking supervision. The centralisation and quality assurance of these processes causes increasing pressure on staff, including the CSSF’s staff.

In 2015, the ECB drew up an inventory of the internal models of credit risk used by banks in the framework of an authorisation to use an IRB approach. The implementation of the mapping of internal models turned out to be necessary due to the multitude of internal models regarding credit risk used by European banks, the complexity associated with their follow-up and supervision and the needs related to the planning of the controls and inspections by considering a risk-oriented approach. Insofar as the banks using an IRB approach are all significant banks within the meaning of the SSM Regulation, the inventory drawn up by the ECB corresponded to a comprehensive exercise for the Luxembourg banking sector.

As regards operational risk, in 2015, the CSSF carried out on-site inspections at two banks that use an advanced approach to determine capital requirements with respect to operational risk and that remain under the direct supervision of the CSSF as they are less significant within the meaning of the SSM Regulation. For the banks that have opted for the AMA approach, the CSSF requires an active and reactive management of operational risks by the entity in Luxembourg. Beyond the application of a model generally set by the parent undertaking, the CSSF expects that within the Luxembourg entity, the capital allocated to operational risks is duly analysed, argued and justified as to its adequacy for the entity's operation in Luxembourg. The capital allocated to operational risks under an AMA approach should fully and accurately reflect the entity's specific risk profile. The AMA approaches must take into account stress scenarios that reflect the intrinsic risks of the Luxembourg entity. More generally, the comparison of scenarios with historic losses, the extent of expected losses as well as the analysis of adequacy of scenarios with local characteristics must enable Luxembourg banks to make judgements on the adequacy of the AMA approach implemented at local level and to make the necessary improvements to address the weaknesses noted.

Consequently, the role of the Luxembourg subsidiary should not be limited to simply provide data to be included in the model of its group. During the local application of the model, the Luxembourg entity must take into account the specificities of its environment in order to better understand, quantify and manage its operational risks, allowing it to take the necessary measures to mitigate or reduce these risks.

Regardless of the risk covered by the internal risk management models and in addition to the attention already given to them in the framework of the authorisations provided for in the CRR or through the efforts to harmonise the rules (via the EBA) or practices (within the SSM), the internal risk management models of Pillar 1 are called into question regarding the degree of undue variability of risk weights these models can achieve. This questioning, which was emphasised by the financial crisis, led to the strengthening of supervisory obligations laid down in CRD IV (Articles 78 and 101) and reflected, in Luxembourg, in Articles 23 and 24 of CSSF Regulation N° 15-02 relating to the supervisory review and evaluation process that applies to CRR institutions. This strengthening consists of benchmarking exercises and regular reviews of the authorisations granted to use internal models.

In this context, in order to bring back trust in the reliability and suitability of the IRB approaches approved and used by banks subject to the supervision of the ECB, a Targeted Review of Internal Model (TRIM) was launched by the ECB in 2015 and will be implemented over several years starting 2016. These developments constrain the authorities, including the CSSF, to allocate more and more resources for the follow-up of the internal models of Pillar 1. Given the questioning of these models and the resources allocated to them by authorities and by banks, their usefulness is being reconsidered. The Basel Committee on Banking Supervision announced the repeal of the AMA approach for operational risks in the long run.

3. IMPLEMENTATION OF MACROPRUDENTIAL SUPERVISION

The entry into force on 1 January 2014 of the Capital Requirements Directive and the regulation applicable to banks and large investment firms (CRD IV/CRR) marked a considerable turning point at European level as regards the macroprudential policy.

The competent bodies for macroprudential supervision at European level were described in point 3. of Chapter II "The European dimension of the supervision of the financial sector" which also includes a description of the functioning of the Luxembourg Systemic Risk Board (SRB).

This section describes the macroprudential measures implemented in Luxembourg and which affect mainly the banking sector as well as a limited number of CRR investment firms.

The CSSF is the national designated authority under CRD IV and is in charge, as such, to implement the macroprudential supervision of Luxembourg banks, in consultation with the ECB and after requesting the opinion or recommendation, as the case may be, of the SRB. It has different tools, among which, in particular, the possibility to require that banks build up additional capital buffers due to their systemic significance, the state of the financial cycle or the structural risks or the possibility to set temporarily minimum risk weights, additional liquidity requirements, additional large exposure requirements or disclosure requirements in case intensity variations of macroprudential or systemic risks as regards the financial system are noted which are likely to have serious consequences on the financial system and real economy.

As the national competent authority, the CSSF also has macroprudential tools, namely the possibility to increase, for banks using the Standardised Approach, the preferential risk weight of 35% applicable to exposures secured by mortgages on residential property or to modify the minimum values of Loss Given Default (LGD) for banks using the internal model-based approach.

Based on these new powers conferred under CRD IV/CRR, several decisions were taken in 2015. Thus, the CSSF designated six banks as systemically important institutions at national level (O-SII) in accordance with the opinion of the SRB. An additional capital buffer ranging from 0.5% to 1% was imposed on them with a three-year transition period[13]. The identification of O-SIIs was carried out pursuant to the EBA guidelines on O-SIIs assessment (ref.: EBA/GL/2014/10).

Buffer rates for the other systemically important institutions

Denomination	2016	2017	2018	2019->
Deutsche Bank Luxembourg S.A.	0.25%	0.50%	0.75%	1.00%
Société Générale Bank & Trust	0.25%	0.50%	0.75%	1.00%
Banque et Caisse d'Épargne de l'État, Luxembourg	0.125%	0.25%	0.375%	0.50%
BGL BNP Paribas	0.125%	0.25%	0.375%	0.50%
CACEIS Bank Luxembourg	0.125%	0.25%	0.375%	0.50%
Banque Internationale à Luxembourg S.A.	0.125%	0.25%	0.375%	0.50%

The countercyclical capital buffer rate (CCyB), the purpose of which is to mitigate the effects of the financial cycle, was calculated according to the ESRB recommendation on setting countercyclical buffer rates (ref.: ESRB/2014/1). In Luxembourg, the CCyB rate was set by the CSSF at 0% for the first quarter of 2016[14], pursuant to the SRB recommendation, as the development of credit to the Luxembourg non-financial sector remains in line with its fundamentals. This analysis and the setting of the CCyB rate are carried out on a quarterly basis. Moreover, in accordance with the opinion of the SRB, small and medium-sized investment firms were exempted from the CCyB requirements, as they do not threaten the stability of the Luxembourg financial system[15].

The CSSF already took other measures based on micro- and macroprudential considerations before the establishment of the SRB. In particular, it required that Luxembourg banks hold an additional capital buffer, called capital conservation buffer, of 2.5% in order to absorb losses in stressed periods as from January 2014. Similarly to the CCyB, in 2015, small and medium-sized investment firms were exempted from capital conservation buffer requirements[16].

Furthermore, the CSSF already issued guidelines to mitigate the risks arising from bank loans in foreign currencies (in 2012) and to mitigate the risks arising from asset encumbrance (in 2014). In addition, the CSSF introduced, in 2013, stricter requirements as regards stress tests of the mortgage loan portfolios held by banks using the IRB approach, i.e. an increase of the minimum of the PD by 50% and an LGD of at least 20%.

[13] CSSF Regulation N° 15-06 (http://www.cssf.lu/fileadmin/files/Lois_reglements/Legislation/RG_CSSF/RCSSF_No15-06eng.pdf).

[14] CSSF Regulation N° 15-04 (http://www.cssf.lu/fileadmin/files/Lois_reglements/Legislation/RG_CSSF/RCSSF_No15-04eng.pdf).

[15] CSSF Regulation N° 15-05 (http://www.cssf.lu/fileadmin/files/Lois_reglements/Legislation/RG_CSSF/RCSSF_No15-05eng.pdf).

[16] CSSF Regulation N° 15-05 (http://www.cssf.lu/fileadmin/files/Lois_reglements/Legislation/RG_CSSF/RCSSF_No15-05eng.pdf).

Agents hired in 2015 and 2016: Department "Supervision of banks"

Left to right: Hélène HAVET, Serge BIREN, Michaela SEIFERT, Davide TASSI, Linh PHAM, Marjorie CANU, Franck CHARREYRE, Marie-Anne GOEDERT, Christophe BRUGMANS

Absent: Benjamin JAVEL

CHAPTER VI

SUPERVISION OF PFS

1. Investment firms
2. Specialised PFS
3. Support PFS

1. INVESTMENT FIRMS

Pursuant to Part I, Chapter 2, Section 2, Subsection 1 of the law of 5 April 1993 on the financial sector, the professionals of the financial sector falling within the following categories are defined as investment firms:

- investment advisers (Article 24);
- brokers in financial instruments (Article 24-1);
- commission agents (Article 24-2);
- private portfolio managers (Article 24-3);
- professionals acting for their own account (Article 24-4);
- market makers (Article 24-5);
- underwriters of financial instruments (Article 24-6);
- distributors of units/shares in UCIs (Article 24-7);
- financial intermediation firms (Article 24-8);
- investment firms operating an MTF in Luxembourg (Article 24-9);
- CRR investment firms (Article 24-10)[1].

The scope of the CSSF's prudential supervision of investment firms governed by Luxembourg law includes the activities performed by these institutions in another EU/EEA Member State, both by means of a branch or under the freedom to provide services. Certain aspects of the prudential supervision, in particular compliance with the rules of conduct for the provision of investment services to clients, fall however within the jurisdiction of the supervisory authority of the host Member State[2].

Conversely, the supervision of branches set up in Luxembourg by investment firms originating from another EU/EEA Member State is performed by the home Member State authority. Nevertheless, certain specific aspects of the supervision of these branches fall within the competence of the CSSF in its capacity as host Member State authority[3].

Furthermore, the prudential supervision carried out by the CSSF also extends to Luxembourg branches of investment firms originating from non-EU/EEA countries.

1.1. Development of investment firms in 2015

1.1.1. Major events in 2015

• CRR investment firms

In the context of Regulation (EU) No 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (CRR), certain categories of investment firms must comply with the new requirements on prudential reporting since 1 January 2014. The number of CRR investment firms falling within the scope of the CRR amounted to 35 entities as at 31 December 2015. Circular CSSF 15/606 clarifies the categorisation of investment firms and explicitly sets out the criteria which allow determining whether or not an investment firm falls within the scope of the CRR.

• Key figures for 2015

As at 31 December 2015, the 107 investment firms subject to the prudential supervision of the CSSF employed 2,278 people in total. This figure slightly decreased compared to the previous year, but it does not necessarily reflect a loss of jobs in the financial sector, as explained in point 1.1.3. hereafter.

[1] This category was introduced by Regulation (EU) No 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012. A CRR investment firm is defined as an investment firm within the meaning of Regulation (EU) No 575/2013.

[2] In accordance with the law of 13 July 2007 on markets in financial instruments transposing the MiFID into Luxembourg law.

[3] Cf. footnote No 2 above.

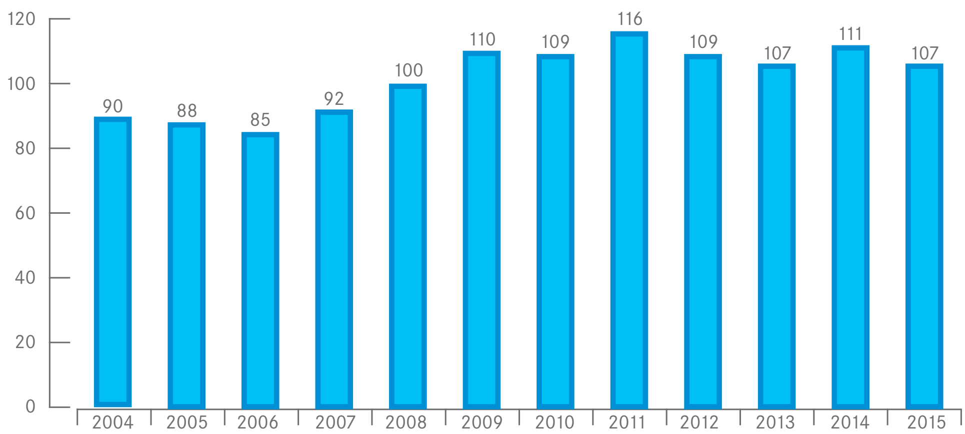
Investment firms increased their net profit significantly; it grew from EUR 146.4 million as at 31 December 2014 to EUR 253.3 million as at 31 December 2015. The balance sheet total of all investment firms also recorded a significant rise and reached EUR 5,999 million as at 31 December 2015, as against EUR 3,647 million as at 31 December 2014.

1.1.2. Development in the number of investment firms

The positive development of the number of investment firms recorded in 2014, following the downward trend registered since 2012, did not continue in 2015. Indeed, the number of investment firms subject to the supervision of the CSSF decreased from 111 entities as at 31 December 2014 to 107 entities at the end of 2015.

The number of entities which have been granted an authorisation as investment firm in 2015 decreased considerably compared to the previous year (seven new entities in 2015 against 13 in 2014). Eleven entities gave up their investment firm status during the year under review, compared to 12 in 2014.

Development in the number of investment firms



Among the investment firms, the activity of private portfolio manager was found most widely with 83 entities authorised in this respect as at 31 December 2015. It is also worth mentioning that a majority of the new entities registered on the official list adopted the status of private portfolio manager.

The following seven investment firms were registered on the official list in 2015:

- Alfa Asset Management (Europe) S.A.
- Diversified Asset Management S.A., DAM
- Franklin Templeton Luxembourg S.A.
- Pâris Bertrand Sturdza (Europe) S.A.
- Patrimundi 1869 S.A.
- Prime Capital AG, Niederlassung Luxemburg
- TNN Capital S.A.

The following 11 entities gave up their status of investment firm in 2015:

a) change or cessation of activities, implying that the entity no longer required an authorisation as investment firm, as it no longer fell within the scope of the law of 5 April 1993 on the financial sector (four entities):

  - CBRE Global Investors Luxembourg S.à r.l.
  - ECP International S.A.
  - Fidessa S.A.
  - UBS Luxembourg Financial Group AG

b) voluntary liquidation (two entities):

- Oddo Services Luxembourg S.A.
- European Value Partners S.A.

c) merger (two entities):

- European Fund Services S.A.[4]
- Origo S.A.[5]

d) change into a management company (one entity):

- Vontobel Asset Management S.A.

e) change into an AIFM (one entity):

- Alternative Leaders S.A.

f) closing of EU/EEA investment firm branches established in Luxembourg (one entity):

- Belador Advisors UK Limited, Luxembourg Branch

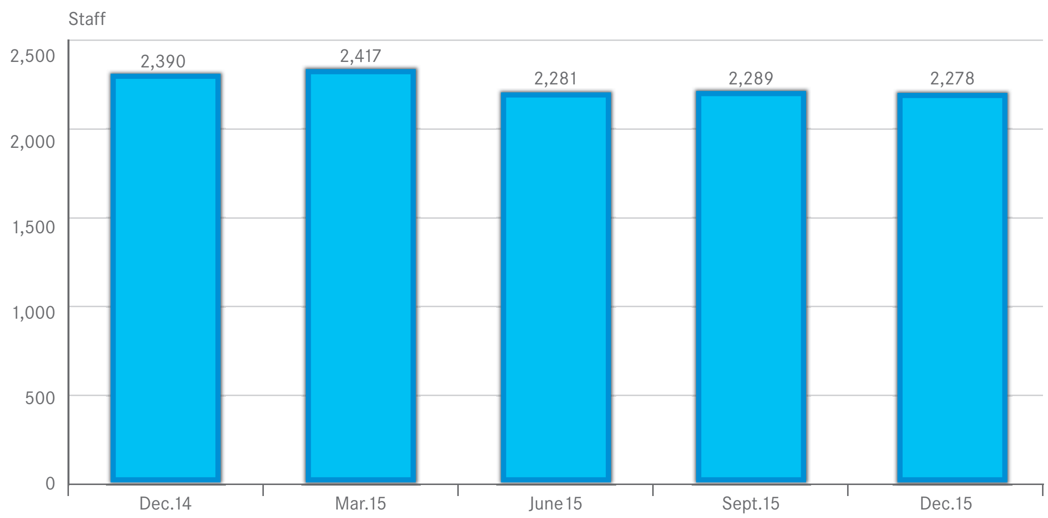
1.1.3. Development in employment

Employment in all investment firms amounted to 2,278 people as at 31 December 2015, as against 2,390 people at the end of December 2014, i.e. a decrease of 112 jobs (-4.7%). This decline reflects mainly transfers of activities which, however, had no impact on the aggregate number of jobs in the financial sector, but only changed the breakdown among the entities of the financial sector, as set forth below.

Employment in investment firms

Year	Number of investment firms	Total staff
2011	116	2,411
2012	109	2,662
2013	107	2,560
2014	111	2,390
2015	107	2,278[6]

Quarterly development in employment



[4] Merger by takeover by Société Générale Bank & Trust.

[5] Merger by takeover by the investment firm Almagest Wealth Management S.A.

[6] Preliminary figure.

The first quarter of 2015 was characterised by an increase, although only slight, in the total employment, rising from 2,390 people as at 31 December 2014 to 2,417 people as at 31 March 2015. Significant upward variations of some players enabled to counteract the decrease of employment due to the withdrawal from the official list of five investment firms during that period.

The staff of investment firms developed downwards during the second quarter and amounted to 2,281 people as at 30 June 2015 against 2,417 people as at 31 March 2015. This decrease is mainly due to one investment firm with a high number of staff which merged with a credit institution. Therefore, this transfer of activities did not impact the employment in the financial sector as a whole, but only affected the breakdown between the different categories of financial players.

During the second half of 2015, employment in investment firms remained relatively stable, shifting from 2,281 people as at 30 June 2015 to 2,289 people as at 30 September 2015 and to 2,278 people as at 31 December 2015. In this period of time, some investment firms showed slight positive or negative fluctuations in their staff figures which did, however, not affect significantly the total number of staff. Minor variations of employment related to new authorisations as investment firm and status withdrawals during 2015 must be added to the previous figure.

Please note also that, as at 31 December 2015, about half the investment firms had nine or less employees.

1.1.4. Development of balance sheets and profit and loss accounts

The provisional balance sheet total of all investment firms established in Luxembourg reached EUR 5,999 million[7] as at 31 December 2015, against EUR 3,647 million as at 31 December 2014, i.e. a substantial increase of 64.49%. This rise is largely attributable to one investment firm authorised in 2015 and reporting a very high balance sheet total. However, the positive development was mitigated by another entity with a significant balance sheet total but which recorded a considerable decline of the balance sheet total on 31 December 2015 compared to the end of December 2014. Moreover, the reduction of the balance sheet total due to status withdrawals during 2015 was largely counteracted by the increase in the balance sheet total of some entities.

Investment firms also recorded a positive development in their net results. Indeed, provisional net results amounted to EUR 253.3 million[8] as at 31 December 2015, against EUR 146.4 million as at 31 December 2014, representing a substantial increase by 73.02%. This rise results mainly from the significant profit as at 31 December 2015 of one entity authorised in 2015. The growth of the net results reported by some entities counteracted the fall of the net results following status withdrawals during the financial year 2015.

It should also be noted that a little less than one third of the investment firms, including notably several entities authorised during the last two years, registered negative results as at 31 December 2015.

Development of the balance sheet total and of the net results of investment firms

(in million EUR)	2014	2015	Variation in %
Balance sheet total	3,647	5,999	+64.49%
Net results	146.4	253.3	+73.02%

1.1.5. International expansion of investment firms

• Subsidiaries created and acquired abroad during 2015

In 2015, the CSSF has not received any request from an investment firm incorporated under Luxembourg law to open a subsidiary abroad.

[7] The branches established in Luxembourg by investment firms originating from another EU/EEA Member State and included since 2009 in the total number of investment firms are not included in these figures.

[8] Cf. footnote No 7 above.

• Freedom of establishment

In 2015, three branches were established in other EU/EEA Member States by investment firms incorporated under Luxembourg law and two branches were closed. Moreover, following the deregistration from the official list of two investment firms, their branches were no longer registered on the list of investment firm branches incorporated under Luxembourg law established in one or more EU/EEA countries at the end of 2015. The total number of branches of Luxembourg investment firms in other EU/EEA Member States amounted to 27 entities at the end of the year, compared to 30 entities as at 31 December 2014.

Following the opening of a branch originating from Germany and the closing of a branch originating from the United Kingdom in 2015, the number of branches established in Luxembourg by investment firms originating from other EU/EEA Member States did not change and remained at nine entities as at 31 December 2015.

Branches established in the EU/EEA as at 31 December 2015

Country	Branches of Luxembourg investment firms established in the EU/EEA	Branches of EU/EEA investment firms established in Luxembourg
Austria	2	-
Belgium	10	-
France	3	-
Germany	4	2
Italy	1	-
Netherlands	2	1
Norway	1	-
Spain	1	-
Sweden	2	-
United Kingdom	1	6
Total	**27**	**9**

There are no branches established by Luxembourg investment firms in a country outside the EU/EEA.

• Freedom to provide services

In 2015, 20 investment firms incorporated under Luxembourg law applied to pursue business in one or several EU/EEA Member States by way of free provision of services. The total number of investment firms which were active in one or more EU/EEA countries following a notification amounted to 76 entities as at 31 December 2015 (73 in 2014). The majority of the investment firms concerned carried out their activities in several EU/EEA countries by way of free provision of services.

The target countries of investment firms incorporated under Luxembourg law, whose total number of notifications amounted to 584 as at 31 December 2015, are mainly Luxembourg's bordering countries (Belgium, France and Germany). Luxembourg investment firms also show major interest in the Netherlands, the United Kingdom, Italy and Spain.

The total number of investment firms established in the EU/EEA and authorised to perform activities under the freedom to provide services within the Luxembourg territory amounted to 2,685 entities at the end of 2015 (against 2,580 entities as at 31 December 2014).

The geographical breakdown of the EU/EEA investment firms operating by way of free provision of services in Luxembourg reveals that the United Kingdom investment firms are by far the most important in number.

Similarly, among the 213 new notifications for free provision of services on the Luxembourg territory received in 2015 (slightly decreasing number as compared to the 226 new notifications in 2014), those originating from the United Kingdom represented a large majority. Besides the entities from the United Kingdom, the entities from Cyprus as well as the entities from countries close to Luxembourg like Germany and the Netherlands show ongoing interest in exercising their activities in Luxembourg by way of free provision of services.

Freedom to provide services within the EU/EEA as at 31 December 2015

Country	Luxembourg investment firms providing services in the EU/EEA	EU/EEA investment firms providing services in Luxembourg
Austria	22	22
Belgium	59	14
Bulgaria	11	5
Croatia	4	-
Cyprus	15	154
Czech Republic	11	2
Denmark	18	33
Estonia	10	1
Finland	16	11
France	54	92
Germany	45	165
Gibraltar	-	14
Greece	14	7
Hungary	14	2
Iceland	5	-
Ireland	15	50
Italy	33	7
Latvia	10	1
Liechtenstein	5	30
Lithuania	10	1
Malta	12	18
Netherlands	34	112
Norway	9	32
Poland	15	3
Portugal	19	4
Romania	11	4
Slovakia	11	2
Slovenia	10	2
Spain	33	36
Sweden	23	14
United Kingdom	36	1,847
Total number of notifications	**584**	**2,685**
Total number of investment firms concerned	**76**	**2,685**

1.2. Prudential supervisory practice

1.2.1. Instruments of prudential supervision

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

- financial information submitted periodically to the CSSF enabling it to continuously monitor the activities of investment firms and the inherent risks, and, particularly, the periodic control of the capital ratio and large exposure limits for the categories of investment firms concerned;
- the documents established yearly by the *réviseur d'entreprises agréé* (approved statutory auditor): the audit report and audited annual accounts, the long form report and, where applicable, the management letter;

- the compliance confirmation signed by all the members of the authorised management as provided for in point 61 of Circular CSSF 12/552 (as amended by Circulars CSSF 13/563 and CSSF 14/597), the summary report of the internal audit function, the summary report of the Compliance function, the summary report of the risk management function as well as the authorised management's report on the implementation of the internal capital adequacy assessment process (ICAAP)[9];
- introductory visits and on-site inspections carried out by the CSSF; in 2015, eight introductory visits and 11 on-site inspections were carried out at investment firms[10].

1.2.2. Compliance with the quantitative standards by investment firms

• Capital base

In accordance with Articles 24 to 24-9 of the law of 5 April 1993 on the financial sector, the authorisation of investment firms is subject to the production of evidence showing the existence of minimal capital base. This capital base consisting of a subscribed and paid-up share capital, relevant share premiums, legally formed reserves and profits brought forward, after deduction of possible losses for the current financial year, must be permanently available to the investment firm and invested in its own interest.

In this context, the CSSF reminds that subordinated loans or the profits for the current financial year must not be taken into account for the determination of the minimum capital base of a professional of the financial sector[11].

Based on the financial data that investment firms must provide to the CSSF on a monthly basis in accordance with Circular CSSF 05/187 (completed by Circular CSSF 10/433), the CSSF verifies particularly the compliance of investment firms with the minimal capital base conditions. In 2015, the CSSF intervened at 10 investment firms for non-compliance with the legal provisions relating to capital base. For one of these cases, the CSSF followed up by issuing an administrative fine of EUR 10,000, in accordance with Article 63 of the law of 5 April 1993 on the financial sector, for non-compliance with the legal requirements in relation to capital base.

• Capital ratio

Investment firms falling within the scope of Circular CSSF 07/290 (as amended by Circulars CSSF 10/451, CSSF 10/483, CSSF 10/497 and CSSF 13/568) defining the capital ratios pursuant to Article 56 of the law of 5 April 1993 on the financial sector and investment firms falling within the scope of the CRR[12], must permanently fulfil the capital ratio requirements.

During 2015, the CSSF recorded six cases of non-compliance with the capital adequacy ratio. Most investment firms concerned regularised meanwhile the situation of non-compliance or are in the process of being regularised. In one of the above-mentioned cases, the CSSF later used its right of injunction, in accordance with Article 59 of the law of 5 April 1993 on the financial sector, due to prolonged non-compliance with the capital adequacy ratio. The CSSF attaches particular importance to permanent compliance with the structural ratios that investment firms are required to observe and closely monitors the regularisation processes implemented by investment firms in case of capital adequacy ratio deficiency.

• Large exposure limits

In the context of the supervision of compliance with large exposure limits[13], the applicable limits were not exceeded in 2015, so that the CSSF did not have to intervene.

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[9] This ICAAP report must be established by the investment firms falling within the scope of the CRR or Circular CSSF 07/290 defining capital ratios pursuant to Article 56 of the law of 5 April 1993 on the financial sector.

[10] Detailed explanations on on-site inspections are provided in Chapter XIV "Instruments of supervision".

[11] Pursuant to Article 20(5) of the law of 5 April 1993 on the financial sector.

[12] CRR investment firms (cf. point 1.1.1. of this chapter) no longer fall within the scope of Circular CSSF 07/290 but must comply with the requirements of Directive 2013/36/EU of 26 June 2013 (CRD IV) and Regulation (EU) No 575/2013 of 26 June 2013 (CRR) on capital ratios and large exposure limits.

[13] Large exposure limits are governed by the CRR (Part Four relating to large exposures) and are not applicable to investment firms complying with the criteria set out in Article 95(1) or Article 96(1) of the CRR. The investment firms authorised to provide investment services 3 and/or 6 fall within the scope of the laws and regulations on large exposures.

1.2.3. Meetings

During the year under review, a total of 59 meetings in relation to investment firms' activities took place on the CSSF's premises. In the context of a closer dialogue, the CSSF attaches particular importance to these meetings with the financial players subject to its supervision.

The meetings with investment firm representatives covered the following areas:

- information requests on the qualification of the activities performed (scope of the law of 5 April 1993 on the financial sector);
- new requests for authorisation;
- initial meetings with the people in charge of the newly authorised investment firms in order to deal with the practical aspect of ongoing supervision;
- changes to the authorisation of active investment firms (activity, acquisition of subsidiaries, legal form, etc.);
- planned changes relating notably to the shareholding, day-to-day management and internal control;
- discussions concerning problems or specific issues noticed in the framework of the prudential supervision exercised by the CSSF;
- information requests in the context of prudential supervision;
- presentation of the general context and activities of the companies concerned; and
- courtesy visits.

1.2.4. Specific controls

Article 54(2) of the law of 5 April 1993 on the financial sector entitles the CSSF to require a *réviseur d'entreprises agréé* to carry out a specific audit at a financial professional, covering one or several specific aspects of the business or operation of the entity concerned. The ensuing costs are to be borne by the professional concerned. The CSSF did not use this right in 2015.

1.2.5. Supervision on a consolidated basis

Following the law of 23 July 2015 repealing Chapter 3a of Part III of the law of 5 April 1993 on the financial sector and introducing a common chapter governing the supervision of CRR institutions on a consolidated basis (Chapter 3 of Part III), only investment firms subject to Regulation (EU) No 575/2013 fall within the scope of supervision on a consolidated basis[14]. The relevant articles define the scope and parameters of the supervision on a consolidated basis. The content and means of consolidated supervision as well as cooperation with other supervisory authorities with respect to consolidated supervision are also defined therein.

As at 31 December 2015, the following six investment firms were submitted to the supervision on a consolidated basis by the CSSF:

- CapitalatWork Foyer Group S.A.
- CA Indosuez Wealth (Global Structuring)[15]
- FIL (Luxembourg) S.A.[16]
- Fund Channel S.A.
- Hottinger & Cie Groupe Financière Hottinguer Société Anonyme
- Petercam (Luxembourg) S.A.

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[14] The investment firms which do not fall within the scope of the CRR are no longer subject to consolidated supervision carried out by the CSSF.

[15] Formerly Crédit Agricole Luxembourg Conseil S.A., in abbreviated form CAL Conseil.

[16] Consolidated supervision by the CSSF on the parent financial holding company in Luxembourg.

2. SPECIALISED PFS

Pursuant to Part I, Chapter 2, Section 2, Subsection 2 of the law of 5 April 1993 on the financial sector, the professionals of the financial sector falling within the following categories are defined as specialised PFS:

- registrar agents (Article 25);
- professional depositaries of financial instruments (Article 26);
- professional depositaries of assets other than financial instruments (Article 26-1);
- operators of a regulated market authorised in Luxembourg (Article 27);
- currency exchange dealers (Article 28-2);
- debt recovery (Article 28-3);
- professionals performing lending operations (Article 28-4);
- professionals performing securities lending (Article 28-5);
- Family Offices (Article 28-6);
- mutual savings fund administrators (Article 28-7);
- corporate domiciliation agents (Article 28-9);
- professionals providing company incorporation and management services (Article 28-10);
- professionals of the financial sector authorised to exercise any activity referred to in Part I, Chapter 2, Section 1 of the law of 5 April 1993 on the financial sector, with the exception of the PFS categories also referred to in Section 2 of the same chapter (Article 13);
- establishments authorised to exercise all the PFS activities permitted by Article 1 of the law of 15 December 2000 on postal financial services.

The prudential supervision of the CSSF extends to specialised PFS incorporated under Luxembourg law, including the activities which they carry out by means of a branch, and to Luxembourg branches of entities originating from abroad.

2.1. Development of specialised PFS in 2015

2.1.1. Major events in 2015

The sector of specialised PFS experienced an overall stable year in 2015.

Thus, as at 31 December 2015, 124 specialised PFS were subject to the prudential supervision of the CSSF (2014: 123 PFS). They employed a total of 3,787 people[17], a figure which increased as compared to last year (2014: 3,431 people).

The balance sheet total of all the specialised PFS amounted to EUR 7,336 million[18] as at 31 December 2015 against EUR 10,776 million as at 31 December 2014, i.e. a drop of EUR 3,439 million which mainly results from one PFS that ceased its activities in 2015.

The aggregate net results decreased from EUR 347.4 million as at 31 December 2014 to EUR 194.1 million[19] as at 31 December 2015, i.e. a decline of EUR 153.3 million mainly attributable to the above-mentioned PFS that ceased its activities in 2015.

[17] Preliminary figure.

[18] Preliminary figure.

[19] Preliminary figure.

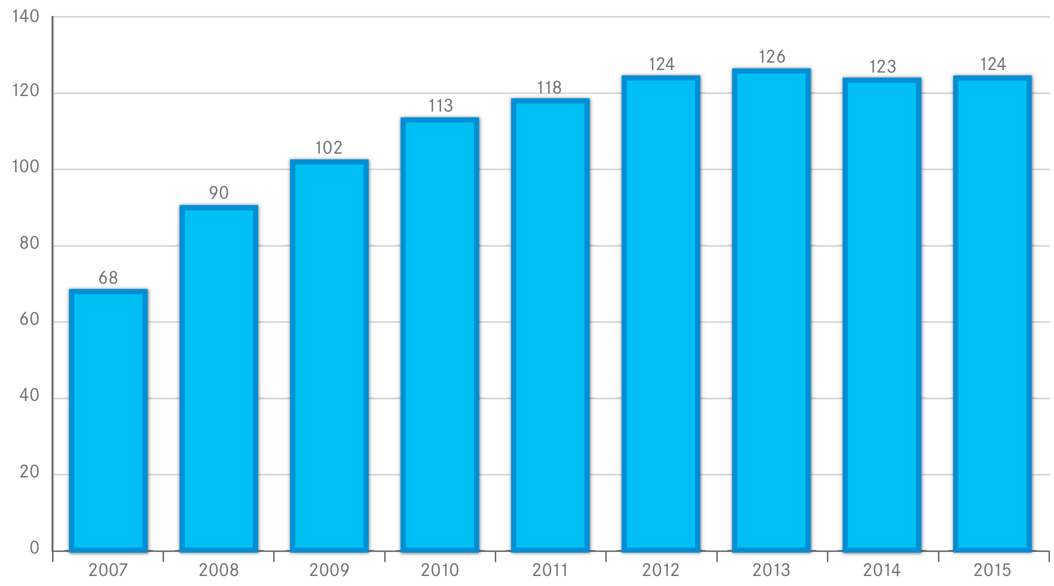
2.1.2. Development in the number of specialised PFS

The stabilisation of the number of specialised PFS observed over the last years has been confirmed in 2015. Thus, the number of specialised PFS grew from 123 entities at the end of 2014 to 124 entities as at 31 December 2015.

The number of entities which received an authorisation as specialised PFS in 2015 is nevertheless lower than the previous year. Five entities were granted an authorisation in 2015, compared to 12 in 2014.

However, only four entities gave up their status of specialised PFS during 2015, against 15 in 2014.

Development in the number of specialised PFS



Among the specialised PFS, the statuses of corporate domiciliation agent and professional providing company incorporation and management services are the most prevalent, followed by the status of registrar agent.

Breakdown of specialised PFS according to status

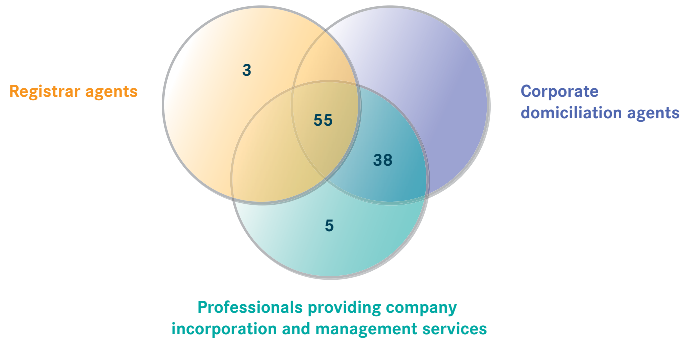
Status	Number
Professionals providing company incorporation and management services	98
Corporate domiciliation agents	93
Registrar agents	58
Family Offices[20]	36
Professional depositaries of assets other than financial instruments	11
Professionals performing lending operations	8
Professional depositaries of financial instruments	4
Debt recovery	2
Mutual savings fund administrators	1
Operators of a regulated market authorised in Luxembourg	1
Professionals performing securities lending	1
Currency exchange dealers	-
Others[21]	3

It should be borne in mind that an entity may have several statuses as specialised PFS and that some statuses authorise ipso jure the exercise of an activity under another status. Thus, for example, pursuant to Article 28-10(3) of the law of 5 April 1993 on the financial sector, the corporate domiciliation agents are authorised ipso jure to carry out the activity of professional providing company incorporation and management services. In addition, a corporate domiciliation agent or a professional providing company incorporation and management services is authorised to be designated as Family Office, in accordance with Article 2 of the law of 21 December 2012 relating to the Family Office activity.

Thus, of the 98 entities having the status of professional providing company incorporation and management services, 93 entities have the additional status of corporate domiciliation agent; among these 93 entities, 55 also have the status of registrar agent.

As at 31 December 2015, the accumulation of these main statuses by specialised PFS may be illustrated as follows.

Accumulation of the main statuses by specialised PFS



[20] The section "Family Office" only includes the entities authorised and carrying out this activity.

[21] The section "Others" consists of two entities which are governed by the general provisions (Article 13) according to Part I, Chapter 2, Section 1 of the law of 5 April 1993 on the financial sector as well as Entreprise des Postes et Télécommunications as far as financial postal services are concerned.

The following five entities were registered on the official list of specialised PFS in 2015:

- MPL Services (Luxembourg) S.A.
- Pan-Invest Luxembourg S.A.
- SGG Depositary Services S.A.
- Trustmoore Luxembourg S.A.
- YT Investor Services S.A.

Four of these entities requested, among others, the status of corporate domiciliation agent, one the status of registrar agent and one the status of professional depositary of assets other than financial instruments.

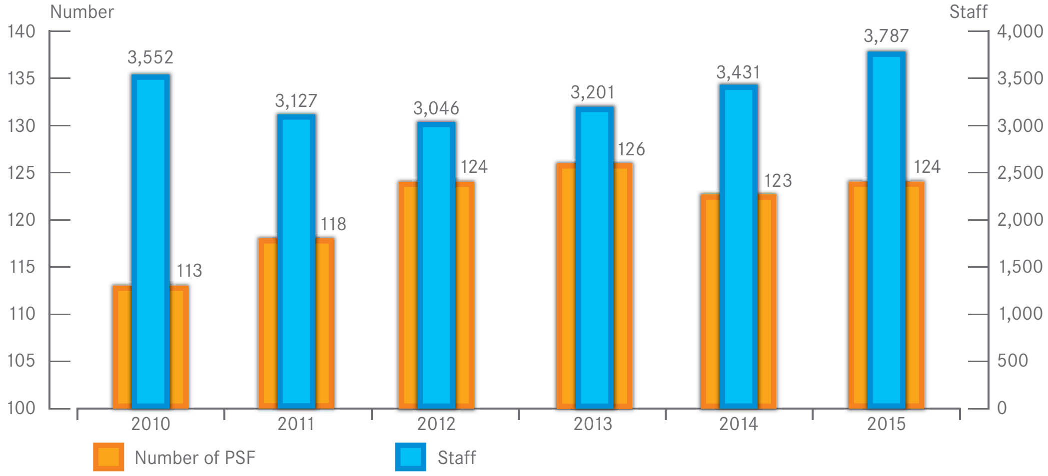
The following four entities gave up their status of specialised PFS on a voluntary basis in 2015:

- Cemex Global Funding S.à r.l. (cross-border merger)
- Gesfo S.A. (withdrawal of authorisation)
- Real I.S. Management S.A. (withdrawal of authorisation)
- IF-Fund Services S.A. (voluntary winding-up).

2.1.3. Development in employment

During 2015, the number of people employed by all specialised PFS rose by 356, representing an increase of 10.4% as compared to the end of 2014.

Development in employment and in the number of specialised PFS



In 2015, the increase in employment was, in particular, attributable to:

- a significant increase in the staff of five entities which, among others, are active in maintaining registers and act as central administration of investment funds (+179 people);
- jobs created by specialised PFS having extended their authorisation in 2015 (+31 people);
- jobs created by specialised PFS authorised in 2015 (+21 people).

According to the figures as at 31 December 2015, 10 specialised PFS employed more than 100 people (2014: nine entities) and half of the specialised PFS employed 10 or less people (61 entities in 2015, against 68 in 2014).

2.1.4. Development of balance sheets and profit and loss accounts

The provisional balance sheet total of all specialised PFS reached EUR 7,336 million as at 31 December 2015, as against EUR 10,776 million as at 31 December 2014, i.e. a drop of EUR 3,439 million (-31.9%). This drop is attributable to one large entity authorised as professional performing lending operations which was taken over during a cross-border merger in 2015. Without taking into account this negative impact, the balance sheet total of the other entities recorded an increase of EUR 544.2 million[22] over a year.

Over one year, the specialised PFS recorded a significant drop in their net results. Indeed, the provisional net results amounted to EUR 194.1 million as at 31 December 2015, as against EUR 347.4 million as at 31 December 2014, representing a decrease of EUR 153.3 million (-44.1%). This fall is mainly attributable to two major entities. Without taking into account the figures relating to these two entities, the aggregate net results of the other entities recorded a rise of EUR 61.8 million[23] over a year.

Development of the balance sheet total and of the net results of specialised PFS

(in million EUR)	2014	2015	Variation in %
Balance sheet total	10,776	7,336	-31.9%
Net results	347.4	194.1	-44.1%

2.1.5. International expansion of specialised PFS

As at 31 December 2015, two specialised PFS (2014: three entities) were represented by means of branches abroad, one in the United Kingdom and one in Denmark.

2.2. Prudential supervisory practice

2.2.1. Instruments of prudential supervision

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

- financial information submitted periodically to the CSSF so as to continuously monitor the activities of the supervised entities and the inherent risks, in addition to the monthly control of compliance with the minimum own funds requirement;
- the documents established yearly by the *réviseur d'entreprises agréé*, including the audit report and audited annual accounts, the control report relating to the fight against money laundering and terrorist financing and, where applicable, the management letter;
- the internal audit reports relating to the audits carried out during the year and the management's report on the state of the internal audit of the specialised PFS;
- introductory visits and on-site inspections carried out by the CSSF.

2.2.2. Compliance with the quantitative and qualitative standards by specialised PFS

• Capital base

In accordance with Article 20 and Articles 25 to 28-10 of the law of 5 April 1993 on the financial sector, the authorisation of specialised PFS is subject to the evidence showing the existence of minimum capital base. The concept of capital base includes the own assets of a specialised PFS authorised as a natural person as well as the own funds of a specialised PFS established as a legal person.

[22] Preliminary figure.

[23] Preliminary figure.

The CSSF reminds that, pursuant to Article 20(4) of the above-mentioned law, own funds must be available to the PFS permanently and invested in its own interest. Moreover, the legislator indicated in the comment to that article that the first requirement aims at ensuring that the capital base is not invested in participations nor blocked for credits granted. The second requirement aims at ensuring that the capital base is used in the interest of the PFS and of its clients and not in the interest of its shareholder or its group.

In this context, the CSSF points out that the funds invested in a participation must be deducted from the capital base of the PFS, where applicable.

Furthermore, the CSSF would like to reiterate that the payment of interim dividends, pursuant to the provisions of the law of 10 August 1915 on commercial companies is deducted from equity and must, therefore, be taken into account for the determination of the PFS' own funds in order to comply with the minimum amount required.

Based on the financial data that specialised PFS must provide to the CSSF on a monthly basis in accordance with Circular CSSF 05/187, the CSSF verifies, among others, compliance with the minimum capital base condition. In 2015, for six entities the CSSF noted cases of non-compliance with the legal provisions relating to own funds (2014: 10 entities). Their situation was regularised in a satisfactory manner within the months following the non-compliance.

• Compliance of the day-to-day management

In 2015, the CSSF intervened 14 times (against nine times in 2014) by way of observation letters due to situations of non-compliance in the day-to-day management of specialised PFS, mainly linked to insufficient presence and/or effective involvement of one of the two daily managers in the day-to-day management of the entity.

In view of the high number of these interventions, the CSSF reiterates the importance of strict compliance with the legal and regulatory provisions in force as regards the day-to-day management of professionals of the financial sector. According to the two-man management principle, the day-to-day management of the entity must be ensured by two representatives at least, who have to prove their effective involvement and presence within the PFS, so as to allow mutual control and collective decision-taking. The representatives in charge of the day-to-day management must also have the same level of responsibility and autonomy and are collectively and directly responsible for the efficient, sound and prudent management of all the activities carried out and the inherent risks.

• Corporate Governance

During 2015, the CSSF continued to ensure that the specialised PFS and, in particular, those which have developed a considerable activity, implement solid frameworks with respect to governance, similarly to the rules applicable to credit institutions and investment firms.

In this context, the CSSF invited several specialised PFS to reflect on a reorganisation of the composition of their administrative and management bodies, notably, because they included, among their members, a majority of people who also had an executive role. In addition, on-site inspections on governance were carried out at three specialised PFS in 2015.

• Loan granting activity

The CSSF reminds that, due to prudential considerations, a specialised PFS cannot grant loans to its shareholders, members of the bodies performing administrative, management and supervisory functions, employees or third parties. It is essential that, on the one hand, all holding in the authorised capital of a professional of the financial sector is financed through own funds and not through borrowed funds. The granting of advances and loans to shareholders, however, means returning the authorised capital to the shareholders. On the other hand, the CSSF considers that granting loans does not fall within the context of the usual business of a PFS, except for professionals authorised pursuant to Article 28-4 of the law of 5 April 1993 on the financial sector, which are authorised to grant loans to the public.

• Shareholder of a PFS

Private equity structures and SICARs are, in principle, not acceptable as shareholders of a PFS or of another supervised entity unless they plausibly justify that their presence in the shareholding does not threaten the stability of the entity concerned, for example, by committing to remain, for an extended period, in the shareholding or through an agreement concluded with other shareholders or partners of this entity (shareholders' agreement).

2.2.3. Meetings

The CSSF attaches particular importance to meetings with the members of the bodies performing administrative, management and supervisory functions of specialised PFS in order to discuss the context of an application file for authorisation, their business development, upcoming amendments to the shareholding or internal organisation, new ongoing projects and any serious issues that arise.

During the year under review, 31 meetings were held (33 in 2014) with representatives of specialised PFS. They covered the following areas:

- presentation of application files for authorisation as specialised PFS;
- initial meetings with the people in charge of the newly authorised specialised PFS in order to deal with the practical aspect of ongoing supervision;
- changes in the authorisation of active PFS (projects to expand or to transfer activities, etc.);
- planned changes relating notably to the shareholding, day-to-day management and internal control;
- regularisation of problems or specific issues noticed in the framework of the prudential supervision exercised by the CSSF;
- information requests in the context of prudential supervision;
- presentation of the general context and activities of the entities concerned;
- courtesy visits.

2.2.4. Specific controls

Article 54(2) of the law of 5 April 1993 on the financial sector entitles the CSSF to require a *réviseur d'entreprises agréé* to carry out a specific audit at a financial professional, covering one or several specific aspects of the business or operation of the entity concerned. The ensuing costs are to be borne by the professional concerned. In 2015, the CSSF did not make use of this right with any specialised PFS.

3. SUPPORT PFS

Pursuant to Part I, Chapter 2, Section 2, Subsection 3 of the law of 5 April 1993 on the financial sector, the professionals of the financial sector falling within the following categories are defined as support PFS:

- client communication agents - ACC (Article 29-1);
- administrative agents of the financial sector - AA (Article 29-2);
- primary IT systems operators of the financial sector - OSIP (Article 29-3);
- secondary IT systems and communication networks operators of the financial sector - OSIS (Article 29-4);
- dematerialisation service providers - PSDC-D (Article 29-5); and
- conservation service providers - PSDC-C (Article 29-6).

The characteristic of support PFS is that they do not as such exercise a financial activity themselves, but act as subcontractors of operational functions on behalf of other financial professionals.

3.1. Development of support PFS in 2015

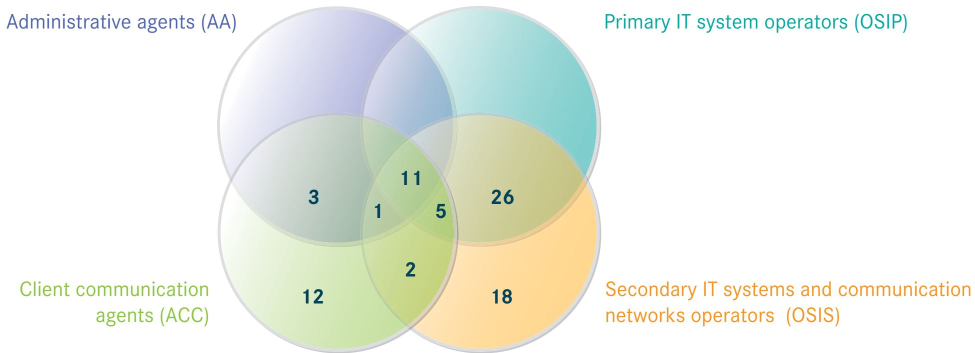
3.1.1. Development in the number of support PFS

After two years of stability, the total number of support PFS decreased in 2015. The number of support PFS amounted to 78 entities as at 31 December 2015 (against 81 at the end of 2014).

One support PFS was authorised as secondary IT systems and communication networks operator of the financial sector (OSIS) in 2015.

Four support PFS were deregistered from the official list in 2015 following the cessation of activities during that year (two mergers, one change of status and one renunciation of authorisation).

Breakdown of support PFS according to status



One of the entities, in addition to the authorisation to perform the four support PFS activities, is also authorised to operate as corporate domiciliation agent (Article 28-9) and as professional providing company incorporation and management services (Article 28-10).

It should be noted that administrative agents are ipso jure authorised to exercise the activities of client communication agents. As a result, no entity has only the status of administrative agent. The same applies to primary IT systems operators which are ipso jure authorised to carry out the activities of secondary IT systems and communication networks operators of the financial sector.

3.1.2. Development in employment

The number of staff of support PFS rose from 9,043 people as at 31 December 2014 (81 active entities) to 9,218 people as at 31 December 2015 (78 active entities), representing an annual increase of 175 positions (+1.94%).

Without taking into account the support PFS that received authorisation in 2015 and those that withdrew their authorisation in 2015, the annual increase amounted to 70 positions.

It is also worth mentioning that part-time work increased by 2.14%. However, this growth remains marginal as it concerns only 19 people.

Employment in support PFS

	2014			2015			Variation
	Luxembourg	Foreigners	**Total**	Luxembourg	Foreigners	**Total**	
Executives	140	438	**578**	117	471	**588**	1.73%
Employees	1,189	7,276	**8,465**	1,064	7,566	**8,630**	1.95%
of which part-time	*110*	*777*	***887***	*90*	*816*	***906***	*2.14%*
TOTAL	**1,329**	**7,714**	**9,043**	**1,181**	**8,037**	**9,218**	**1.94%**
of whom men	*1,063*	*6,059*	***7,122***	*942*	*6,297*	***7,239***	*1.64%*
of whom women	*266*	*1,655*	***1,921***	*239*	*1,740*	***1,979***	*3.02%*

3.1.3. Development of balance sheets and profit and loss accounts

The balance sheet total of all support PFS established in Luxembourg reached EUR 1,107.2 million as at 31 December 2015, as against EUR 1,053.5 million as at 31 December 2014, i.e. an increase of 5.10%.

Over one year, support PFS increased their net results from EUR 59.9 million as at 31 December 2014 to EUR 68.1 million as at 31 December 2015 (+13.69%).

3.2. Prudential supervisory practice

The CSSF exercises its prudential supervision based on several instruments, mainly financial and ad hoc information, documents to be submitted in the context of the Risk Assessment Report (RAR) and the Descriptive Report (DR), introductory visits and on-site inspections. This supervision also involves sending deficiency letters.

3.2.1. Meetings

In the year under review, 75 meetings were organised in relation to the activities of support PFS, either on the premises of the CSSF or on the premises of the support PFS concerned. These meetings covered the following areas:

- information requests on business solutions that support PFS intend to offer to their financial sector clients;
- information requests on the qualification of the activities carried out;
- presentation of authorisation files;
- planned amendments to functions submitted to authorisation (day-to-day management, external audit, shareholding, etc.);
- information requests on prudential supervision;
- discussions concerning problems or specific issues noticed in the framework of the prudential supervision exercised by the CSSF;
- amendments to the authorisation (project for a new activity, holding, corporate purpose, etc.); and
- courtesy visits.

3.2.2. Letters

In 2015, a total of 427 letters have been sent to support PFS. These letters mainly covered the following areas:

- insufficient capital base;
- comments on the RARs, descriptive reports and closing documents;
- planned amendments to functions submitted to authorisation (day-to-day management, external audit, shareholding, etc.);
- information requests on prudential supervision;
- information requests on compliance with the legal framework relating to the activities carried out with financial sector clients; and
- injunction letters.

3.2.3. On-site inspections

In 2015, the department in charge of the prudential supervision of support PFS carried out two introductory visits.

3.2.4. Development of the Risk Assessment Report (RAR)

After having noted poor quality and inconsistencies in the content of the RARs in 2014, the CSSF reflected on a double strategy: improving, together with the support PFS, the quality of the existing RARs and introducing a risk categorisation according to status and activity by drawing up risk frameworks. The purpose of this strategy still remains the implementation of a more prescriptive approach as announced by the CSSF in its circular letter of 9 January 2015. The work in this area continued in 2015 and led to the following results and conclusions.

• Proof of concept

The first part of the project aimed at developing a proof of concept of the new prescriptive approach. With the help of the Luxembourg Institute for Science and Technology (LIST) and several support PFS, the CSSF developed, in 2015, two business models for the activities of "paper and electronic archiving" and "primary IT systems operator of the financial sector". In these models, the different resources linked to different process functions were identified in order to be able to detect every element likely to influence the risk profile of a support PFS.

These models are rather complete and vast so as to allow most of the support PFS to find their activities, whilst remaining exploitable by the CSSF.

• Implementation of frameworks

Following the validation of the first business models by the contributing support PFS, the LIST and the CSSF started work on the risk frameworks for each business. The aim is to define the frameworks which are broadly based on the international norms and standards recognised at operational level and in relation to IT systems security and also based on the discussions held between the LIST and the CSSF.

The frameworks should include the basic risks applicable to all the businesses of the sector as well as the specific risks for the different statuses and activities that must be dealt with according to the CSSF.

First, most of the risks in these frameworks will remain as complete as possible and they will constitute a base framework applicable to most of the support PFS. Afterwards, the PFS will have the possibility to continuously supplement these frameworks with more specific risks that the CSSF will have to approve before their inclusion in the framework proposed to all the support PFS.

The first framework basis as well as the identification of the links between the business models were drawn up with the help of the LIST.

- **Choice of modelling tool**

Throughout the last months, the CSSF tried to find a modelling tool that is adapted to the specific needs and expectations of this project. The aim is, in particular, to find a tool in which business models and base frameworks can be included in order to have a standard basis and convenient means for support PFS to report their RARs to the CSSF.

Initially, the CSSF opted for the use of an optimised risk assessment methodology (*Méthode Optimisée d'Analyse des Risques*, MONARC) by Cyberworld Awareness & Security Enhancement Services (CASES) which was already quite advanced at the level of analysis of risks related to IT systems and which seemed, at first, to offer a good starting point for the continuation of the project.

After several meetings and discussions, the CSSF observed, however, that the integration of the business models in MONARC was quite difficult and that the categorisation of risks as provided for in Circular CSSF 12/544 (Reputational, Operational, Legal, Financial risks - R.O.L.F.) was not entirely compatible with the methodological approach adopted by this tool.

The CSSF decided therefore to continue its search in order to find a tool that is more adapted to its needs and that allows an easy inclusion of the business models and respective frameworks and their timely development.

An important aspect in the choice of the tool is the wish of the CSSF to align with the General Data Protection Regulation (GDPR) at European level and to choose a tool that covers also the key focal points of the Commission Nationale de la Protection des Données (CNPD).

Consequently, the CSSF wishes to find an appropriate tool that allows, both, the support PFS to introduce their risk assessments in accordance with the framework and the regulator to analyse the results, to link the different models and actors so as to mitigate the systemic risk and concentration risk while continuing to develop the business models as well as the complete risk framework in order to present them to the market next year.

3.2.5. Creation of a "voluntary" status

The support PFS and the CSSF noted over the last few years that the banks and other professionals of the financial sector often required that their service providers have an authorisation as support PFS, even if an authorisation is not necessary for the services provided.

This requirement induced a lot of companies to request an authorisation as support PFS although they did not have and probably will never have a contract justifying this authorisation. Moreover, as the administrative burden associated with the status of support PFS is not negligible, it is not beneficial for small companies providing services such as bodyshopping to have a status as support PFS that is not required by law for these activities but that is required by their clients wishing to protect themselves from the risk of confidential information disclosure.

In this context, some players of the financial centre suggested the CSSF and the Ministry of Finance to create a new "voluntary" status, subject to professional secrecy, for entities providing services in the financial sector which do not require an authorisation as support PFS pursuant to the law of 5 April 1993 on the financial sector.

The CSSF does not oppose the creation of such a status. Discussions must still take place in order to define the type of supervision and reporting applicable to this new status. In addition, discussions are under way to determine the legal or regulatory means by which to introduce this status given that this status is optional. The CSSF will then propose, in consultation with market representatives, the activities to which this new status could apply.

3.2.6. Segregation of the PFS and non-PFS activities within the same legal entity

Since 2007, the support PFS may provide PFS and non-PFS services within one and the same legal entity. A market demand proposes a segregation of the PFS and non-PFS activities at administrative level.

In the past, the CSSF already stated that such a separation may be contemplated provided that the non-PFS activities do not impact the PFS activities. However, the CSSF specified that some activities such as finance, the fight against money laundering and terrorist financing or the know-your-customer (KYC) cannot be separated and must cover all the activities.

3.2.7. Relaxation of the geographical constraints

By observing the increasing trend of banks and investment firms to relocate their IT abroad, some players of the market would like to align the activities of support PFS with this trend and explore the possibility of a geographical relaxation, in other words, explore, in particular, the possibility for support PFS to use a processing centre abroad or to provide services abroad under the status of support PFS. The CSSF indicated that the use of a branch is already possible since these branches, without separate legal personality, remain under the CSSF's supervision.

Discussions are being held, notably, on the different options which might be accepted by the CSSF and on the principles and requirements which would have to be complied with by the support PFS regarding substance, controls and central administration in Luxembourg.

3.2.8. Merger of the two statuses of IT systems operators

The provisions relating to IT systems and communication networks operators of the financial sector were introduced by the law of 2 August 2003 in Article 29-3 of the law of 5 April 1993 on the financial sector. A capital of EUR 1,500,000 was required as well as the condition requiring the exclusive service provision in the financial sector.

Upon request from the market that deemed these capital requirements too high, the law of 13 July 2007 amended certain provisions, among which, the repeal of the exclusivity condition and the division of the status into two categories of IT systems operators: the primary IT systems operator of the financial sector governed by Article 29-3 of the law of 5 April 1993 on the financial sector and subject to a reduced capital requirement of EUR 370,000 and the secondary IT systems and communication networks operator of the financial sector governed by Article 29-4 of the above-mentioned law and subject to a capital requirement of EUR 50,000. This distinction allowed more modest providers to access the market.

Having been asked on the possible merger of these two statuses of IT systems operators governed by Articles 29-3 and 29-4, the CSSF gave a positive opinion and suggested to reduce the capital requirement to EUR 125,000 so that the more modest providers are not penalised.

3.2.9. FATCA and CRS reports

In the framework of the U.S. directive FATCA (Foreign Account Tax Compliance Act) and following discussions in the OECD on the automatic exchange of information, most of the financial institutions must submit the FATCA and CRS (Common Reporting Standard) reports to the tax administrations concerned.

Given that the Luxembourg professionals of the financial sector are legally obliged to exchange information on their clients with the tax authorities, these service provisions are inherent in the financial sector and relate to the administrative aspect of the financial professionals' activity.

The CSSF thus decided that the compilation and submission of these reports to the tax authorities on behalf of Luxembourg financial professionals relate to the administrative services of these financial professionals and, therefore, require the status of administrative agent of the financial sector pursuant to Article 29-2 of the law of 5 April 1993 on the financial sector.

3.2.10. Dematerialisation or conservation service providers (PSDC)

The law of 25 July 2015 on e-archiving introduced two new support PFS statuses in the law of 5 April 1993 on the financial sector, namely:

- dematerialisation service providers of the financial sector (Article 29-5):

  Dematerialisation service providers of the financial sector are dematerialisation or conservation service providers within the meaning of the law of 25 July 2015 on e-archiving in charge of the dematerialisation of documents on behalf of credit institutions, PFS, payment institutions, electronic money institutions, UCIs, SIFs, SICARs, pension funds, authorised securitisation undertakings, insurance undertakings or reinsurance undertakings, governed by Luxembourg law or by foreign law.

  Authorisation to act as dematerialisation service provider of the financial sector can only be granted to legal persons. It is conditional on the production of evidence of a share capital of not less than EUR 50,000.

  ILNAS (Institut Luxembourgeois de la Normalisation, de l'Accréditation de la Sécurité et qualité des produits et services) and the CSSF cooperate for the purpose of performing their respective tasks of supervising the dematerialisation service providers of the financial sector.

- conservation service providers of the financial sector (Article 29-6):

  Conservation service providers of the financial sector are dematerialisation or conservation service providers within the meaning of the law of 25 July 2015 on e-archiving in charge of the conservation of electronic documents on behalf of credit institutions, PFS, payment institutions, electronic money institutions, UCIs, SIFs, SICARs, pension funds, authorised securitisation undertakings, insurance undertakings or reinsurance undertakings, governed by Luxembourg law or by foreign law.

  Authorisation to act as conservation service provider of the financial sector can only be granted to legal persons. It is conditional on the production of evidence of a share capital of not less than EUR 125,000.

  The CSSF and ILNAS cooperate for the purpose of performing their respective tasks of supervising the conservation service providers of the financial sector.

  Activities of mere data storage which do not consist in storing a copy with probative value or a digital original within the meaning of the law of 25 July 2015 while guaranteeing its integrity do not fall within the scope of Article 29-6.

These new statuses are intended for entities that wish to provide dematerialisation and/or conservation services of documents with probative value to the financial sector and that have obtained prior notification by ILNAS of their registration on ILNAS' official list of PSDCs.

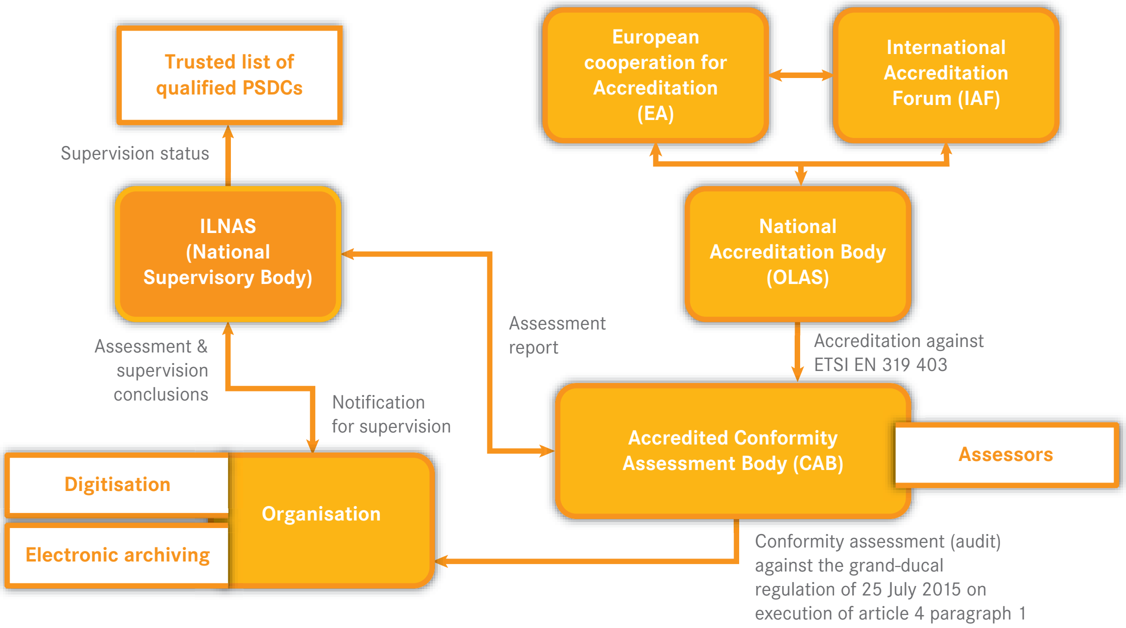
The regulatory framework and the procedures to be followed in order to obtain these new statuses are rather complex since the entities must follow a specific certification process. More specifically, the entities must follow the steps below.

- The entity must comply with the Technical Rule consisting of requirements and measures for the certification of PSDCs, which is described in the annex to the Grand-ducal Regulation of 25 July 2015. The Technical Rule is a single reference containing all the conditions to be fulfilled to obtain the PSDC status. It is defined based on the international standards published and maintained by the International Organization for Standardization and supplemented by ILNAS in the specific context of dematerialisation and conservation processes with probative value. This Technical Rule includes, in particular, requirements with respect to information security and operational management of the dematerialisation or conservation processes with probative value.
- Where the entity considers that it complies with the requirements included in the Technical Rule, it must request an independent conformity assessment body (CAB) accredited by the Office Luxembourgeois d'Accréditation et de Surveillance (OLAS) to carry out an audit. The audit carried out by the CAB is assimilated to the drawing-up of practical recommendations in order to facilitate the understanding of the requirements and measures set out in the Technical Rule. These recommendations are based on a programme defined by the CAB and validated by ILNAS for the purpose of ensuring that the requirements of the Technical Rule are indeed covered. After the validation of the programme, the CAB assesses the implementation of the requirements of the Technical Rule. This technical and documentation audit will allow the drawing-up of an

intermediary report which will include possible corrective measures to be implemented by the entity and the assessment of these recommendations. After the implementation of these corrective measures, the auditors will be able to draft a final report submitted to ILNAS.

- Then, ILNAS will check whether the audit report and the audit carried out by the CAB complied with the required conditions and whether the contemplated audit programme was met. If the report does not include elements showing non-compliance with the Technical Rule by the entity, ILNAS will validate and notify the status of PSDC by registering the entity on the relevant list.

The process can be illustrated as follows.



Source : website www.ilnas.public.lu.

As soon as the PSDC is registered on the list of ILNAS, the PSDC may file its authorisation application in order to obtain the statuses under Articles 29-5 and 29-6 with the CSSF by following the usual authorisation procedure.

CHAPTER VII

SUPERVISION OF PAYMENT INSTITUTIONS AND ELECTRONIC MONEY INSTITUTIONS

1. PAYMENT INSTITUTIONS

1.1. Regulatory framework

The law of 10 November 2009 on payment services (hereinafter LPS) transposed Directive 2007/64/EC of 13 November 2007 on payment services in the internal market into national law. This directive aims at establishing a coherent legal framework in order to establish a single European market for payment services and to ensure its proper functioning.

The LPS introduced the financial institution status of payment institution authorised to carry out payment services activities, and imposes authorisation, exercise and supervisory conditions. The relevant payment services are specifically listed in the annex to the LPS.

Article 31(1) of the LPS designates the CSSF as the competent authority for the supervision of payment institutions.

The main prudential provisions applicable to payment institutions can be summarised as follows:

- quantitative prudential standards, i.e. minimum capital and capital requirements calculated according to one of the three methods provided for in the LPS; the CSSF monitors the proper application and compliance with these quantitative standards based on a specific reporting pursuant to Circular CSSF 11/511;
- rules for the protection of funds received for the execution of payment transactions;
- anti-money laundering and counter-terrorist financing rules;
- guarantee of a sound and prudent management and existence of a robust internal governance system.

As regards the last indent, the rules are, in principle, those applicable to credit institutions and investment firms but they apply to payment institutions according to a proportionality principle based, among others, on the type of payment services provided and the risks incurred.

The activities exercised by the Luxembourg payment institutions in other EU/EEA Member States through the establishment of branches, the intermediary of agents or under the freedom to provide services, are also subject to the prudential supervision of the CSSF.

While the rules governing access to the profession and prudential supervision are simplified compared to those applicable to credit institutions, the payment institutions are subject to activity restrictions and prohibitions:

- strict control of credit granting according to the provisions of Article 10(3) of the LPS;
- prohibition to receive deposits or other repayable funds within the meaning of Article 2(3) of the law of 5 April 1993 on the financial sector;
- exclusive use of payment accounts opened by payment institutions for payment transactions;
- rules for the protection of funds for the execution of activities other than the provision of payment services in accordance with Articles 10 and 14 of the LPS.

Circular CSSF 12/550 relating to the practical rules concerning the mission of the *réviseurs d'entreprises agréés* (approved statutory auditors) of payment institutions specifies the scope of the mandate for the audit of annual accounting documents and sets the rules relating to the content of the long form report that payment institutions have to communicate to the CSSF pursuant to Article 37 of the LPS.

1.2. Payment institutions authorised in Luxembourg

Following the authorisation of one new payment institution in 2015, nine Luxembourg payment institutions were listed in the public register of payment institutions established in Luxembourg as at 31 December 2015:

- CYBERservices Europe S.A.;
- Digicash Payments S.A.;
- FIA-NET Europe S.A.;

- Huellemann & Strauss Onlineservices S.à r.l.;
- Olky Payment Service Provider S.à r.l.;
- Rakuten Payment Services S.à r.l.;
- SIX Payment Services (Europe) S.A.;
- StubHub Services S.à r.l.;
- SnapSwap International S.A.

In addition, there is Deutsche Post Zahlungsdienste GmbH, Niederlassung Luxemburg, a branch of a payment institution under German law.

The company Cetrel S.A. acts as an agent on behalf of SIX Payment Services (Europe) S.A.

2. ELECTRONIC MONEY INSTITUTIONS

2.1. Regulatory framework

Directive 2009/110/EC of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions, repealing the first Directive 2000/46/EC on electronic money, was transposed into national law by the law of 20 May 2011, amending the LPS.

The major purpose of this directive is to provide electronic money with a sustainable and attractive regime and, in particular, to make prudential supervision of electronic money institutions (hereinafter EMIs) consistent with that applicable to the payment institutions governed by Directive 2007/64/EC (i.e. simplified rules to access the profession and lighter prudential supervision compared to credit institutions).

The directive creates an autonomous regime for the EMIs that are no longer considered as credit institutions. At national level, the CSSF has been designated as the competent authority to supervise EMIs.

Following the entry into force of Directive 2009/110/EC, electronic money is viewed from a wider perspective insofar as the definition given by the directive covers, in principle, all the situations where an issuer of electronic money issues a prepaid stored value in exchange for funds. Electronic money is defined as a monetary value represented by a claim on the issuer, which is:

- stored electronically, including magnetically;
- issued upon receipt of funds for the purpose of payment transactions; and
- accepted by a natural or legal person other than the electronic money institution.

Pursuant to Article 24-6 of the LPS, EMIs are entitled to carry out, in addition to the issuance of electronic money, each of the following activities:

- provision of payment services listed in the annex to the LPS;
- granting of credit subject to compliance with the provisions of Article 24-6(1)(b) of the LPS;
- provision of operational services and ancillary services closely related to the issuance of electronic money or to the provision of payment services;
- management of payment systems;
- other commercial activities.

The LPS imposes authorisation, exercise and supervisory conditions on EMIs. The main prudential provisions applicable to the EMIs may be summarised as follows:

- quantitative prudential standards, i.e. minimum capital and capital requirements in accordance with Articles 24-11 and 24-12; the CSSF monitors the proper application and compliance with these quantitative standards based on a specific reporting pursuant to Circular CSSF 11/522;

- rules for the protection of funds received in exchange for electronic money in accordance with the provisions of Article 24-10 of the LPS;
- anti-money laundering and counter-terrorist financing rules;
- guarantee of a sound and prudent management and existence of a robust internal governance system.

As regards the last indent, the rules are, in principle, those applicable to credit institutions and investment firms but apply to EMIs according to a proportionality principle based, among others, on the type of risks incurred.

The protection of funds as mentioned in the second indent above is a key element of the electronic money regime. The purpose of this regime is to guarantee electronic money holders the redemption of their funds in case of insolvency of the EMI.

In accordance with this requirement, the funds received by the EMI in exchange for electronic money may either be deposited in a separate bank account, in order not to be commingled with the funds of persons other than electronic money holders, or invested in certain assets according to the criteria defined in Article 24-10(1)(a) of the LPS or covered by an insurance policy. Consequently, the funds thus segregated must not form part of the EMI's own assets and must be deducted, in the sole interests of the electronic money holders, from the claims of other creditors of the institution. Investments of these funds are legally limited to investments in "secure and low-risk assets" in accordance with the provisions of Article 24-10(4) of the LPS.

The activities exercised by the Luxembourg EMIs in other EU/EEA Member States through the establishment of branches, intermediaries or agents or under the freedom to provide services, are also subject to the prudential supervision of the CSSF.

Similarly to payment institutions, EMIs are subject to activity restrictions:

- prohibition to conduct the business of taking deposits or other repayable funds within the meaning of Article 2(3) of the law of 5 April 1993 on the financial sector;
- strict control of credit granting according to the provisions of Article 24-6(1) of the LPS.

EMIs must comply with the provisions of Article 48-2 of the LPS relating to the issuance and redeemability of electronic money. Moreover, they are not allowed to grant interest or any other benefit related to the length of time during which an electronic money holder holds electronic money.

Circular CSSF 13/569 relating to the practical rules concerning the mission of the *réviseurs d'entreprises agréés* (approved statutory auditors) of electronic money institutions specifies the scope of the mandate for the audit of annual accounting documents and sets the rules relating to the content of the long form report that the EMIs have to communicate to the CSSF pursuant to Article 37 of the LPS.

2.2. Electronic money institutions authorised in Luxembourg

Following the abandonment of authorisation of one EMI[1] in 2015, five EMIs were listed in the public register of EMIs as at 31 December 2015:

- Amazon Payments Europe S.C.A.;
- iPay International S.A.;
- Leetchi Corp S.A.;
- PayCash Europe S.A.;
- YAPITAL Financial A.G.

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[1] FLASHiZ S.A. changed its business model and abandoned the activities requiring an authorisation as EMI. Consequently, the institution was deregistered on 20 June 2015.

All the EMIs authorised in Luxembourg issue electronic money in accordance with point 29) of Article 1 of the LPS. The methods of use of electronic money and payment channels may nevertheless vary according to the corporate model of each EMI. Thus, according to the business model chosen by the EMI, the holder of electronic money may either carry out payments to a merchant (B2C), or make fund transfers from his/her electronic money account to the electronic money account of another user (C2C).

Payments may be made:

- online: through the EMI's website, the merchant's website (checkout), a mobile phone, a prepaid card, etc.;
- offline: through a mobile phone (e.g. NFC, BLE, QR code), a prepaid card, etc.

Agents hired in 2015 and 2016: Department "Information systems and supervision of support PFS"

Left to right: Aymeric POISNEL, Jun KOBAYASHI, Cristina SPINELLI, Jean DE CHILLOU, Alexandre CUREAU,
Alexandre CASTAING, Laurent SCHMITZ, Yolande HEUSCHLING, Jean-Christian MIOT, Marion CONSALVI, Alessandro ANZANI

Absent : Renaud DOEBELI, Rémi LAURENT, Armand SCHOLTES

CHAPTER VIII

SUPERVISION OF UCIs

1. MAJOR EVENTS IN 2015

As at 31 December 2015, the total number of authorised investment fund managers (IFMs) amounted to 414, against 379 at the end of 2014, representing a 9.23% increase.

The number of authorised alternative investment fund managers (AIFMs) rose from 169 entities at the end of 2014 to 211 entities at the end of 2015. This growth can be explained by the increasing interest of managers in benefiting from a European passport. Among the newly registered AIFMs, nine players established themselves in Luxembourg for the first time.

The Luxembourg UCI sector[1] also showed a positive development, its total net assets passing from EUR 3,127.7 billion at the end of 2014 to EUR 3,543.6 billion at the end of 2015 (+EUR 415.9 billion, i.e. +13.30%). This rise resulted from a positive net capital investment of EUR 301.0 billion and a positive impact of financial markets of EUR 114.9 billion.

The increase in net assets occurred in a context of financial markets characterised by a low interest rate environment stemming not only from accommodating monetary policies, but also from the uncertainty surrounding global economic growth, fuelled by concerns on the solidity of Chinese growth, which is reflected in an enhanced volatility. The uncertainty around the first key interest rate rise by the US Federal Reserve also influenced markets, as the end-of-year increase implied diverging monetary policies on both sides of the Atlantic. As a consequence of the decreasing trend in commodities and of the political and geopolitical issues in some regions, many emerging countries became vulnerable.

In contrast, the number of UCIs decreased from 4,193 entities at the end of 2014 to 4,160 entities as at 31 December 2015 (-33 entities, i.e. -0.79%).

In terms of performance at the level of developed markets, the equity index “MSCI WORLD Standard (Large + Mid Cap)” in EUR grew by 10.42% and the index “JPMorgan GBI Global Traded Index Hedged Index Level Euro”, representing bonds of developed countries, slightly rose by 0.75%.

As regards emerging countries, the index “MSCI (EM) Standard (Large + Mid Cap)” in EUR, representing emerging market equities, dropped by 5.23% and the index “JPMorgan EMBI Global (Hedged Euro)”, representing the emerging market bonds, grew by 1.05%.

Most UCI categories recorded net capital investments, the most significant inflow amounting to EUR 112.1 billion having been recorded by diversified UCIs. In respect of the above issues, emerging market equity and bond UCI categories experienced a net capital disinvestment.

From a regulatory perspective, the CSSF decided, via Circular CSSF 15/633, to extend the transmission of quarterly financial information to all authorised IFMs and no longer only to management companies subject to Chapter 15 of the law of 17 December 2010 relating to undertakings for collective investment (hereinafter “2010 Law”). The first data to be transmitted by authorised IFMs, other than management companies subject to Chapter 15, are those as at 31 December 2015, which have to be filed by 29 February 2016 at the latest.

Moreover, Regulation (EU) 2015/760 on European long-term investment funds (ELTIFs) is applicable since 9 December 2015. The objective of ELTIFs is to raise and channel capital towards European long-term investments in the real economy.

2. INVESTMENT FUND MANAGERS (IFMs)

IFMs comprise the following fund managers:

- management companies subject to Chapter 15 of the 2010 Law (“ManCo15”);
- management companies subject to Chapter 16 of the 2010 Law (“ManCo16”);
- authorised alternative investment fund managers (“authorised AIFMs”) subject to the law of 12 July 2013 on alternative investment fund managers (“AIFM Law”);

[1] Except where specifically provided otherwise, "UCI" refers to UCITS and Part II UCIs subject to the law of 17 December 2010 as well as to SIFs governed by the law of 13 February 2007 and to SICARs governed by the law of 15 June 2004.

- management companies subject to Chapter 18 of the 2010 Law (“ManCo18”); and
- registered alternative investment fund managers (“registered AIFMs”).

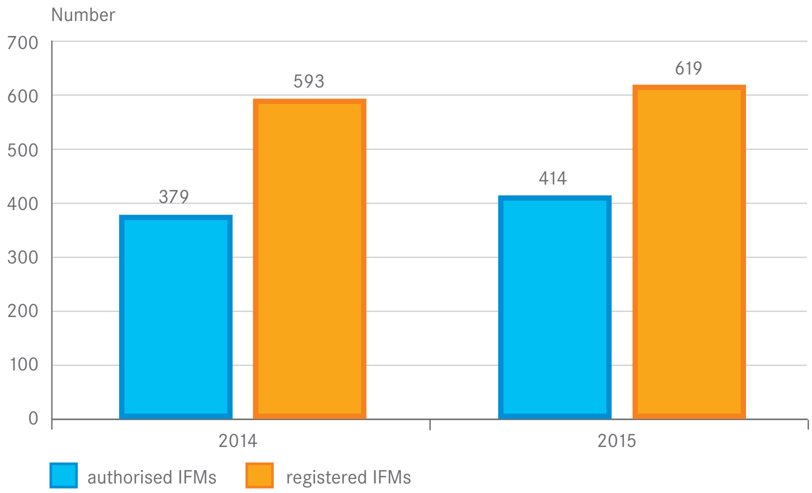
2.1. Development in numbers

The total number of authorised IFMs amounted to 414 as at 31 December 2015, against 379 as at 31 December 2014, representing an increase of 35 entities. Among these new entities, nine players established themselves in Luxembourg for the first time.

Of the 414 authorised IFMs, 177 entities (121 ManCo15 and 56 ManCo16) are subject to both the 2010 Law and the AIFM Law.

The total number of registered IFMs (Article 3(3) of the AIFM Law) amounted to 619 entities as at 31 December 2015, against 593 as at 31 December 2014. Among the registered IFMs, 11 are ManCo15 and 36 ManCo16.

Development in the number of IFMs



Breakdown of authorised IFMs per category

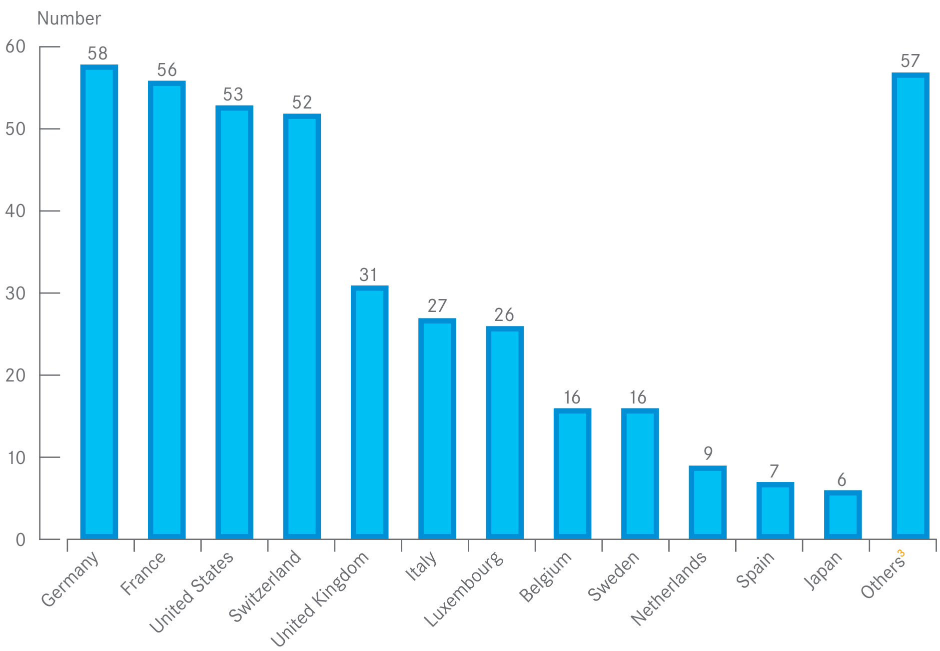
Category	2014	2015
ManCo15	206	203
ManCo16 (Article 125-1)	114	120
ManCo16 (Article 125-2)	39	56
ManCo18	1	1
AIFM[2]	19	34
Total	**379**	**414**

[2] The term “AIFM” includes the external managers other than the management companies subject to the 2010 Law and the internally managed AIFs.

2.2. Geographical origin

As in previous years, the main countries of origin of authorised IFMs are Germany, France, the United States and Switzerland.

Geographical origin of authorised IFMs



2.3. Development in employment[4]

Within authorised IFMs, the total staff of ManCo15 showed an upward trend as at 31 December 2015. The number of people employed rose from 3,389 as at 31 December 2014 to 3,768 as at 31 December 2015. This growth is mainly linked to a staff increment within already existing entities: some entities have strengthened their structure as a consequence of an increase in their business activities and one entity benefited from a transfer of personnel resulting from a shift of activity within the group to which it belongs.

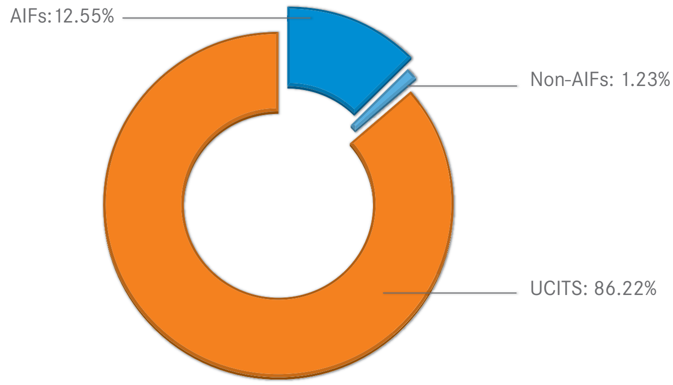
2.4. Assets under management

As at 31 December 2015, authorised IFMs managed EUR 2,937.2 billion in assets. UCITS represent 86.22% of the total assets under management, whereas alternative investment funds (AIFs) account for 12.55%. This breakdown has remained stable compared to 31 December 2014.

[3] Others: Andorra (3), Australia (4), Austria (2), Brazil (1), British Virgin Islands (1), Canada (3), Denmark (4), Finland (5), Greece (5), Jersey (3), Liechtenstein (2), Malta (2), Norway (3), Poland (1), Portugal (3), Qatar (2), Mauritius (1), Russia (5), Saudi Arabia (2), South Africa (2), Supranational (1), United Arab Emirates (2).

[4] Data not available for all IFMs.

Breakdown of assets under management according to type of assets



9.9% of authorised IFMs manage portfolios of more than EUR 20 billion in assets and 35.3% manage portfolios of less than EUR 100 million.

Breakdown of authorised IFMs in terms of assets under management

Assets under management *(in EUR)*	Number	Relative share
> 20 billion	41	9.9%
10 to 20 billion	19	4.6%
5 to 10 billion	20	4.8%
1 to 5 billion	76	18.4%
500 million to 1 billion	29	7.0%
100 million to 500 million	83	20.0%
< 100 million	146	35.3%
Total	**414**	**100.0%**

2.5. Investment strategies

Among the authorised IFMs, those falling under the AIFM Law were allowed to manage the following investment strategies according to Article 7(4) of the AIFM Law as at 31 December 2015.

Breakdown of investment strategies

Investment strategies	Relative share
Funds of funds	19%
Fixed income	17%
Equities	16%
Real estate	12%
Investment capital	8%
Speculative	8%
Commodities	4%
Infrastructure	3%
Others	13%
Total	**100%**

Most of them have thus requested an authorisation to manage AIFs with “funds of funds”, “fixed-income” and “equities” strategies. In 2015, the situation remained similar to 2014.

2.6. Discretionary management

The 2010 Law and the AIFM Law allow authorised IFMs to benefit from an extended scope of activity, in particular for the provision of discretionary management services. As at 31 December 2015, 42 authorised IFMs provided this service for a total of EUR 44.4 billion in assets under management.

2.7. Financial situation[5]

The provisional balance sheet total of IFMs subject to Chapter 15 of the 2010 Law reached EUR 12.5 billion as at 31 December 2015, against EUR 11.2 billion as at 31 December 2014, which represents an 11.19% increase.

The provisional aggregate net profits amounted to EUR 2.70 billion as at 31 December 2015, against EUR 2.43 billion as at 31 December 2014, i.e. an 11.04% growth. This increment resulted from the rise in net assets under management boosting current operating income.

2.8. Freedom to provide services and freedom of establishment of branches

2.8.1. Freedom to provide services under the UCITS Directive

In 2015, five Luxembourg authorised IFMs (three in 2014) notified their intention to carry out the functions included in the collective management activities in another EU Member State under the freedom to provide services. The host Member States are Germany, France, the United Kingdom and Italy.

In 2015, 14 IFMs established in other EU Member States (most of them in France) notified their intention to carry out the functions included in the collective management activities under the freedom to provide services in Luxembourg.

2.8.2. Freedom to provide services under the AIFMD

In 2015, 12 authorised IFMs notified their intention to manage AIFs under the freedom to provide services in one or several other EU Member States. The host Member States are Germany, Finland, France, Italy, the United Kingdom and Sweden.

In 2015, 56 IFMs established in other EU Member States notified their intention to manage Luxembourg AIFs under the freedom to provide services.

2.8.3. Free establishment of branches under the UCITS Directive and the AIFMD

As at 31 December 2015, two IFMs from other Member States (Malta and Germany) provided UCITS and AIF management services via a branch in Luxembourg.

At the same date, 26 Luxembourg IFMs were represented by a branch in one or several EU Member States under the UCITS Directive or the AIFMD, which corresponds to a total of 54 branches.

2.9. EuVECA and EuSEF

As at 31 December 2015, eight EuVECA registration requests under Regulation (EU) No 345/2013 of 17 April 2013 on European venture capital funds had been submitted to the CSSF. Out of these eight applications, three IFMs have been registered by the CSSF in order to use the EuVECA designation.

However, no EuSEF registration request under Regulation (EU) No 346/2013 of 17 April 2013 on European social entrepreneurship funds was submitted to the CSSF.

[5] Financial data not available for all IFMs.

3. EVOLUTION OF THE UCI SECTOR

3.1. Evolution of the number of UCIs

As at 31 December 2015, 4,160 UCIs were registered on the official list against 4,193 UCIs at the end of the previous year, representing a decrease of 33 entities (-0.79%). This drop is linked to a consolidating trend in the UCI sector, which also tends to prefer the creation of new sub-funds. During the year, 279 UCIs were registered on the official list and 312 entities were deregistered from the official list.

Evolution of the number of UCIs

Year	Number of UCIs	Registrations on the list	Deregistrations from the list	Net variation	Variation in %
2005	2,107	310	174	136	6.90%
2006	2,353	415	169	246	11.68%
2007	3,050	895	198	697	29.62%
2008	3,592	759	217	542	17.77%
2009	3,699	435	328	107	2.98%
2010	3,914	503	288	215	5.81%
2011	4,121	509	302	207	5.29%
2012	4,117	403	407	-4	-0.10%
2013	4,181	384	320	64	1.55%
2014	4,193	371	359	12	0.29%
2015	4,160	279	312	-33	-0.79%

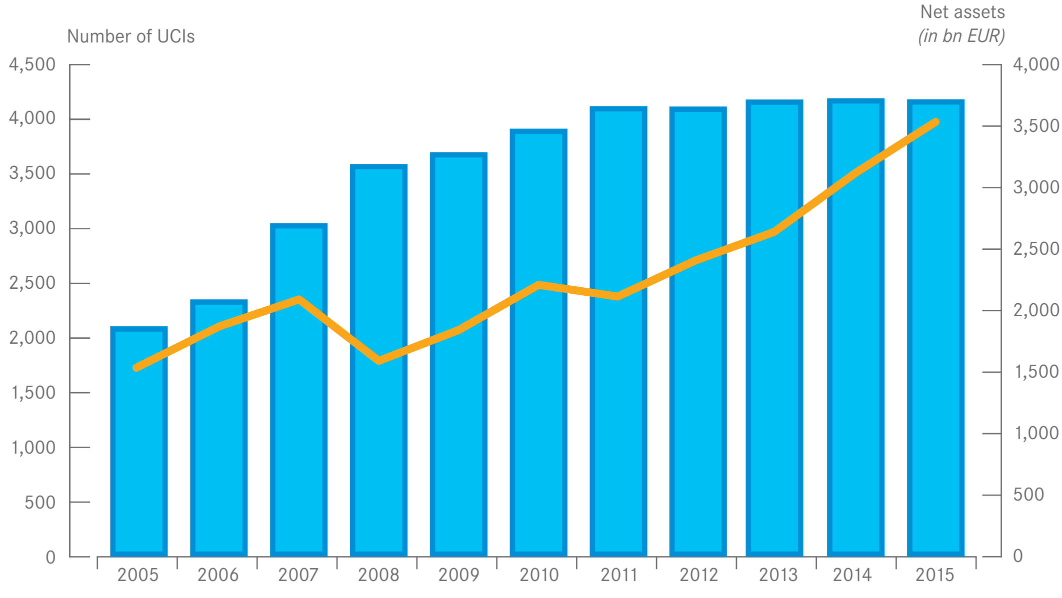
3.2. Evolution of the net assets of UCIs

Through the inflow of new capital and the positive developments in the financial markets, total net assets of Luxembourg UCIs grew by EUR 415.9 billion over one year to reach EUR 3,543.6 billion as at 1 December 2015 (+13.30%). This increase originates partially from net subscriptions (72.37%) and partially from a positive impact of the financial markets (27.63%). Net capital investments in Luxembourg UCIs amounted to EUR 301.0 billion in 2015, which proves the investors' confidence in the financial markets.

Evolution of UCI net assets - in billion EUR

Year	Net assets	Net subscriptions	Net assets variation	Variation in %	Average net assets per UCI
2005	1,527.7	237.2	421.4	38.09%	0.725
2006	1,856.4	248.1	328.7	21.52%	0.789
2007	2,076.8	197.3	220.4	11.87%	0.681
2008	1,576.5	-75.0	-500.3	-24.09%	0.439
2009	1,858.4	86.4	281.9	17.88%	0.502
2010	2,220.4	163.8	362.0	19.48%	0.567
2011	2,120.0	6.6	-100.4	-4.52%	0.514
2012	2,413.7	126.5	293.7	13.85%	0.586
2013	2,645.7	193.4	232.0	9.61%	0.633
2014	3,127.7	249.1	482.0	18.22%	0.746
2015	3,543.6	301.0	415.9	13.30%	0.852

Evolution of the number and net assets of UCIs



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
UCIs	2,107	2,353	3,050	3,592	3,699	3,914	4,121	4,117	4,181	4,193	4,160
Net assets	1,527.7	1,856.4	2,076.8	1,576.5	1,858.4	2,220.4	2,120.0	2,413.7	2,645.7	3,127.7	3,543.6

3.3. Evolution of the number of UCI fund units[6]

As at 31 December 2015, 2,616 UCIs out of a total of 4,160 had adopted an umbrella structure. As the number of operating sub-funds rose from 12,646 to 12,952 (+2.42%), the total number of fund units increased from 14,237 as at 31 December 2014 to 14,496 as at 31 December 2015 (+1.82%). In contrast, traditionally structured UCIs decreased by 47 fund units (-2.95%).

Evolution of the number of UCI fund units

Year	**Total number of UCIs**	of which traditionally structured UCIs	*as % of total*	of which umbrella funds	*as % of total*	Number of sub-funds	*Average number of sub-funds per umbrella fund*	**Total number of fund units**	Variation in %
2005	2,107	809	*38.40%*	1,298	*61.60%*	7,735	*5.96*	8,544	8.44%
2006	2,353	966	*41.05%*	1,387	*58.95%*	8,622	*6.22*	9,588	12.22%
2007	3,050	1,362	*44.66%*	1,688	*55.34%*	9,935	*5.89*	11,297	17.82%
2008	3,592	1,573	*43.79%*	2,019	*56.21%*	10,973	*5.43*	12,546	11.06%
2009	3,699	1,581	*42.74%*	2,118	*57.26%*	10,891	*5.14*	12,472	-0.59%
2010	3,914	1,585	*40.50%*	2,329	*59.50%*	11,618	*4.99*	13,203	5.86%
2011	4,121	1,652	*40.09%*	2,469	*59.91%*	11,943	*4.84*	13,595	2.97%
2012	4,117	1,603	*38.94%*	2,514	*61.06%*	12,154	*4.83*	13,757	1.19%
2013	4,181	1,597	*38.20%*	2,584	*61.80%*	12,451	*4.82*	14,048	2.12%
2014	4,193	1,591	*37.94%*	2,602	*62.06%*	12,646	*4.86*	14,237	1.35%
2015	4,160	1,544	*37.12%*	2,616	*62.88%*	12,952	*4.95*	14,496	1.82%

[6] "Fund units" refers to both traditionally structured UCIs and sub-funds of umbrella funds. The number of new "fund units" therefore means, from an economic point of view, the number of asset portfolios created.

3.4. Evolution of UCIs and their net assets according to legal status and applicable law

3.4.1. Evolution of UCIs and their net assets according to legal status

The breakdown of UCIs between common funds (*fonds communs de placement* (FCP)), *sociétés d'investissement à capital variable* (SICAV), *sociétés d'investissement à capital fixe* (SICAF) and *sociétés d'investissement en capital à risque* (SICAR) reveals that, on 31 December 2015, SICAVs were still the prevailing form with 2,151 entities out of a total of 4,160 active UCIs, against 1,684 entities operating as FCPs, 43 as SICAFs and 282 as SICARs.

At the end of 2015, SICAVs' net assets represented 74.95% of the total net assets of UCIs and FCPs' net assets represented 23.42% of the total net assets of UCIs. The net assets of SICAFs and SICARs remained at the margins with 0.58% and 1.05%, respectively, of the total net assets of UCIs.

3.4.2. Evolution of UCIs and their net assets according to applicable law

UCIs break down as follows according to applicable law: they fall either under Part I of the 2010 Law or under Part II of the same law or under the law of 13 February 2007 relating to specialised investment funds ("SIF Law") or under the law of 15 June 2004 relating to the investment company in risk capital ("SICAR Law").

As at 31 December 2015, 45.48% of the UCIs registered on the official lists were UCITS governed by Part I of the 2010 Law and 9.23% were UCIs governed by Part II of the same law (non-coordinated UCIs). SIFs represented 38.51% and SICARs 6.78% of the 4,160 Luxembourg UCIs.

Net assets were distributed as follows at the end of 2015: 83.16% for UCIs under Part I, 4.80% for UCIs under Part II, 10.99% for SIFs and 1.05% for SICARs.

As regards Part I, the number of UCIs decreased by 0.05% compared to 2014 and net assets increased by 14.29%, whereas the number of UCIs under Part II decreased by 9.00% and their net assets rose by 0.53%. The number of SIFs increased by 0.75% and their net assets by 12.03%. The number of SICARs dropped by 2.08% while their net assets rose by 14.37%.

The following table compares the evolution in 2015 of the number of UCIs and net assets according to both the legal status and applicable law.

Evolution of the number of UCIs and their net assets according to legal status and applicable law

	2014				2015				Variation 2014/2015			
Number of UCIs	FCPs	SICAVs	Others	Total	FCPs	SICAVs	Others	Total	FCPs	SICAVs	Others	Total
Part I	1,087	806	0	1,893	1,054	838	0	1,892	-3.04%	3.97%	0.00%	-0.05%
Part II	199	219	4	422	187	194	3	384	-6.03%	-11.42%	-25.00%	-9.00%
SIFs	477	1,070	43	1,590	443	1,119	40	1,602	-7.13%	4.58%	-6.98%	0.75%
SICARs	0	0	288	288	0	0	282	282	0.00%	0.00%	-2.08%	-2.08%
Total	1,763	2,095	335	**4,193**	1,684	2,151	325	**4,160**	-4.48%	2.67%	-2.99%	-0.79%
Net assets *(in billion EUR)*	FCPs	SICAVs	Others	Total	FCPs	SICAVs	Others	Total	FCPs	SICAVs	Others	Total
Part I	552.4	2,026.0	0.0	2,578.4	612.8	2,334.1	0.0	2,946.9	10.93%	15.21%	0.00%	14.29%
Part II	71.5	96.6	0.9	169.0	66.8	102.5	0.6	169.9	-6.57%	6.11%	-33.33%	0.53%
SIFs	138.8	192.7	16.1	347.6	150.3	219.2	19.9	389.4	8.29%	13.75%	23.60%	12.03%
SICARs	0.0	0.0	32.7	32.7	0.0	0.0	37.4	37.4	0.00%	0.00%	14.37%	14.37%
Total	762.7	2,315.3	49.7	**3,127.7**	829.9	2,655.8	57.9	**3,543.6**	8.81%	14.71%	16.50%	13.30%

3.5. Net subscriptions

In 2015, UCITS under Part I of the 2010 Law recorded net subscriptions totalling EUR 264.1 billion. UCIs under Part II showed net subscriptions totalling EUR 0.9 billion. Net subscriptions of SIFs amounted to EUR 33.0 billion and those of SICARs to EUR 3.0 billion.

Breakdown of net subscriptions according to Parts I and II of the 2010 Law, SIFs and SICARs

(in billion EUR)	FCPs	SICAVs	Others	Total	in %
Part I	43.2	220.9	0.0	264.1	87.74%
Part II	-1.0	2.2	-0.3	0.9	0.30%
SIFs	11.6	17.9	3.5	33.0	10.96%
SICARs	0.0	0.0	3.0	3.0	1.00%
Total	**53.8**	**241.0**	**6.2**	**301.0**	**100.00%**

3.6. Valuation currencies used

As regards the valuation currencies used, most fund units (9,327 out of a total of 14,496, i.e. 64.34%) were denominated in euro, followed by those in US dollars (3,836, i.e. 26.46%) and those in pound sterling (335, i.e. 2.31%).

In terms of net assets, the fund units denominated in euro accounted for EUR 1,965.7 billion out of a total of EUR 3,543.6 billion (i.e. 55.47%), ahead of fund units expressed in US dollars (EUR 1,296.6 billion, i.e. 36.59%) and in pound sterling (EUR 79.6 billion, i.e. 2.25%).

3.7. UCIs' investment policy

The table below describes the development in the number of UCIs and net assets according to their investment policy.

Net assets and fund units of UCIs according to their investment policy

Investment policy	2014		2015		Variation in %	
	Number of fund units	*Net assets (in billion EUR)*	Number of fund units	*Net assets (in billion EUR)*	Number of fund units	Net assets
Fixed-income transferable securities	3,083	994.8	3,099	1,051.0	0.52%	5.65%
Variable-yield transferable securities	3,593	922.0	3,776	1,055.3	5.09%	14.46%
Mixed transferable securities	4,065	640.4	4,084	764.5	0.47%	19.38%
Funds of funds	2,011	196.9	2,034	231.0	1.14%	17.32%
Money market instruments and other short-term securities	274	249.7	266	293.7	-2.92%	17.62%
Cash	37	3.3	23	2.3	-37.84%	-30.30%
Private equity	135	16.2	151	21.6	11.85%	33.33%
Venture capital	26	1.2	26	1.5	0.00%	25.00%
Real estate	303	33.9	316	42.8	4.29%	26.25%
Futures, options, warrants	156	14.0	153	12.1	-1.92%	-13.57%
In risk capital (SICARs)	388	32.7	388	37.4	0.00%	14.37%
Other assets	166	22.6	180	30.4	8.43%	34.51%
Total	**14,237**	**3,127.7**	**14,496**	**3,543.6**	**1.82%**	**13.30%**

In 2015, the main UCI categories benefited from both significant net subscriptions and from a positive development of financial markets.

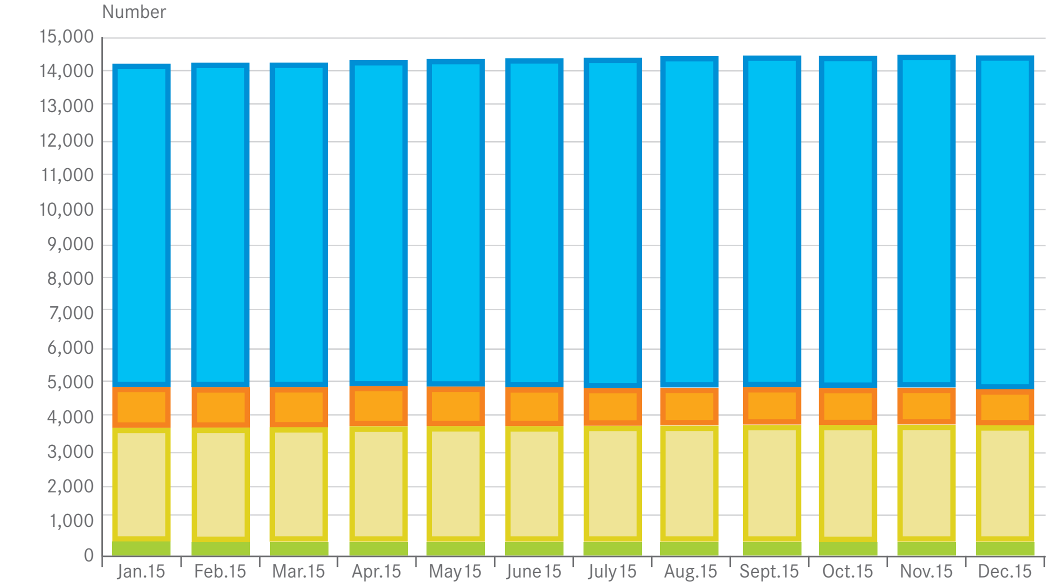
Investment policy of UCIs subject to Parts I and II of the 2010 Law, SIFs and SICARs

Situation as at 31 December 2015	Number of fund units	Net assets *(in billion EUR)*	Net assets *(in %)*
UCITS subject to Part I			
Fixed-income transferable securities	2,411	955.8	26.97%
Variable-yield transferable securities	3,357	990.2	27.94%
Mixed transferable securities	2,720	594.4	16.77%
Funds of funds	916	125.4	3.54%
Money market instruments and other short-term securities	197	271.4	7.66%
Cash	12	1.5	0.04%
Futures and/or options	66	6.2	0.18%
Other assets	9	2.0	0.06%
Sub-total	**9,688**	**2,946.9**	**83.16%**
UCIs subject to Part II			
Fixed-income transferable securities	148	24.0	0.68%
Variable-yield transferable securities	93	19.4	0.55%
Mixed transferable securities	289	56.4	1.59%
Funds of funds	365	39.3	1.11%
Money market instruments and other short-term securities	57	19.8	0.56%
Cash	9	0.8	0.02%
Private equity	14	3.1	0.09%
Venture capital	2	0.0	0.00%
Real estate	20	1.0	0.03%
Futures and/or options	35	3.4	0.09%
Other assets	14	2.7	0.08%
Sub-total	**1,046**	**169.9**	**4.80%**
SIFs			
Fixed-income transferable securities	540	71.2	2.01%
Variable-yield transferable securities	326	45.7	1.29%
Mixed transferable securities	1,075	113.7	3.21%
Funds of funds	753	66.3	1.87%
Money market instruments and other short-term securities	12	2.5	0.07%
Cash	2	0.0	0.00%
Private equity	137	18.5	0.52%
Venture capital	24	1.5	0.04%
Real estate	296	41.8	1.18%
Futures and/or options	52	2.5	0.07%
Other assets	157	25.7	0.73%
Sub-total	**3,374**	**389.4**	**10.99%**
SICARs - In risk capital			
Public-to-private	3	0.1	0.00%
Mezzanine	10	1.6	0.05%
Venture capital	112	9.0	0.25%
Private equity	263	26.7	0.75%
Sub-total	**388**	**37.4**	**1.05%**
Total	**14,496**	**3,543.6**	**100.00%**

3.8. Evolution of UCI fund units

In 2015, the number of fund units grew by 259 units (+1.82%) to 14,496 fund units at the end of the year.

Monthly evolution of the number of fund units



	Jan.15	Feb.15	Mar.15	Apr.15	May 15	June 15	July 15	Aug.15	Sept.15	Oct.15	Nov.15	Dec.15
Part I	9,376	9,408	9,412	9,460	9,504	9,540	9,584	9,611	9,615	9,627	9,646	9,688
Part II	1,186	1,176	1,166	1,164	1,147	1,128	1,093	1,088	1,084	1,076	1,062	1,046
SIFs	3,302	3,318	3,332	3,342	3,347	3,347	3,359	3,364	3,382	3,393	3,390	3,374
SICARs	392	390	390	391	394	394	400	400	399	399	398	388

3.8.1. Fund units approved in 2015

In 2015, 1,984 new fund units were authorised. In absolute terms, this figure represents a decrease of 148 fund units (-6.94%) compared to the previous year.

Yearly evolution of the number of fund units approved

	2010	2011	2012	2013	2014	2015
Newly approved fund units	2,418	2,227	2,159	2,106	2,132	1,984
of which Part I	*61.37%*	*55.41%*	*60.49%*	*58.41%*	*66.37%*	*67.09%*
of which Part II	*6.37%*	*7.54%*	*4.56%*	*4.84%*	*3.00%*	*2.52%*
of which SIFs	*29.94%*	*33.95%*	*32.53%*	*34.14%*	*28.61%*	*28.88%*
of which SICARs	*2.32%*	*3.10%*	*2.42%*	*2.61%*	*2.02%*	*1.51%*

The breakdown by investment policy of the fund units approved in 2015 shows that mixed transferable securities, variable-yield transferable securities and fixed-income transferable securities account for most of the new fund units' investment policies. The proportion of new fund units investing in variable-yield transferable securities, real estate and private equity increased in 2015.

Investment policy of fund units approved in 2015

Investment policy	2014		2015	
	Number of fund units	As a % of total	Number of fund units	As a % of total
Fixed-income transferable securities	522	24.48%	407	20.51%
Variable-yield transferable securities	498	23.36%	529	26.66%
Mixed transferable securities	585	27.44%	552	27.82%
Funds of funds	321	15.06%	277	13.96%
Money market instruments and other short-term securities	10	0.47%	13	0.66%
Cash	4	0.19%	3	0.15%
Private equity	22	1.03%	38	1.92%
Venture capital	2	0.09%	4	0.20%
Real estate	52	2.44%	61	3.08%
Futures, options, warrants	28	1.31%	26	1.31%
In risk capital (SICARs)	43	2.02%	30	1.51%
Other assets	45	2.11%	44	2.22%
Total	**2,132**	**100.00%**	**1,984**	**100.00%**

3.8.2. Fund units closed in 2015

In 2015, 1,339 fund units were closed, which represents 78 fund units less (-5.50%) than in the previous year.

Yearly evolution of the number of fund units closed

	2010	2011	2012	2013	2014	2015
Liquidated fund units	653	759	945	887	965	895
Matured fund units	111	143	157	135	125	100
Merged fund units	381	511	401	443	327	344
Total	**1,145**	**1,413**	**1,503**	**1,465**	**1,417**	**1,339**

The breakdown by investment policy shows that most of the fund units closed in 2015 had invested in mixed transferable securities.

Investment policy of fund units closed in 2015

Investment policy	2014		2015	
	Number of fund units	As a % of total	Number of fund units	As a % of total
Fixed-income transferable securities	372	26.25%	315	23.52%
Variable-yield transferable securities	258	18.21%	282	21.06%
Mixed transferable securities	412	29.08%	407	30.40%
Funds of funds	212	14.96%	194	14.49%
Money market instruments and other short-term securities	41	2.89%	32	2.39%
Cash	34	2.40%	9	0.67%
Private equity	7	0.49%	6	0.45%
Venture capital	1	0.07%	5	0.37%
Real estate	23	1.62%	14	1.05%
Futures, options, warrants	28	1.98%	31	2.31%
In risk capital (SICARs)	17	1.20%	30	2.24%
Other assets	12	0.85%	14	1.05%
Total	**1,417**	**100.00%**	**1,339**	**100.00%**

3.9. Evolution of some specific categories of UCIs

3.9.1. Guarantee-type UCIs

The purpose of guarantee-type UCIs is to offer investors security from the fluctuations inherent in financial markets. According to the investment policy pursued by the UCIs concerned, the guarantee ensures that the investor is reimbursed a proportion of the invested capital or is fully reimbursed the initial investment or even receives a return on investment at the end of one or several pre-determined periods.

In 2015, the number of guarantee-type UCIs fell from 142 to 123 entities and the total number of fund units decreased from 236 to 197. In terms of fund units, this drop can be explained by the launch of 13 new fund units whereas the guarantees either expired or were not extended for 52 fund units.

As at 31 December 2015, the 197 fund units broke down into 38 fund units guaranteeing unitholders only a proportion of the capital commitment, 102 fund units guaranteeing repayment in full of the capital commitment (money-back guarantee) and 57 fund units offering their investors a return in addition to the initial subscription price.

As at 31 December 2015, the net assets of guarantee-type UCIs decreased by EUR 1.5 billion to EUR 31.8 billion (-4.5%). It is also worth noting that the guarantee-type UCIs set up by German promoters accounted for 95.5% of the total net assets of all guarantee-type UCIs.

Evolution of guarantee-type UCIs

Year	Number of UCIs (excluding SICARs)	Number of fund units	Net assets *(in billion EUR)*
2006	121	297	32.6
2007	154	360	43.7
2008	176	382	44.8
2009	194	409	45.8
2010	192	400	42.0
2011	190	360	40.3
2012	168	297	37.5
2013	154	276	36.1
2014	142	236	33.3
2015	123	197	31.8

3.9.2. Real estate UCIs

In 2015, net assets of UCIs (excluding SICARs) investing mainly in real estate increased by 26.3%. It should be noted that SIFs remain the preferred vehicles for real estate investments.

Evolution of real estate UCIs

Year	Number of fund units (excluding SICARs)	of which active fund units	of which Part II	of which SIFs	Net subscriptions *(in billion EUR)*	Net assets *(in billion EUR)*
2006	76	64	22	54	2.7	8.1
2007	104	80	21	83	6.5	15.5
2008	137	111	16	121	7.1	20.9
2009	150	125	15	135	2.0	19.0
2010	179	149	13	166	0.0	21.4
2011	210	192	27	183	2.9	24.1
2012	244	220	26	218	2.0	25.9
2013	279	253	27	252	5.9	30.5
2014	303	255	23	280	2.9	33.9
2015	316	280	20	296	7.8	42.8

3.9.3. Sharia UCIs

The number of Sharia UCIs (excluding SICARs) and fund units grew by six fund units in 2015 and their net assets rose by 6.9%.

Development of Sharia-compliant UCIs

Year	Number of fund units (excluding SICARs)	Net assets *(in million EUR)*
2006	8	94
2007	9	202
2008	22	213
2009	23	308
2010	24	473
2011	24	525
2012	28	1,277
2013	37	1,899
2014	43	2,278
2015	49	2,436

3.9.4. Microfinance UCIs

The number of UCIs (excluding SICARs) investing in microfinance only increased by three fund units in 2015. However, their net assets soared by 25.9%.

Evolution of UCIs in the microfinance sector

Year	Number of fund units (excluding SICARs)	Net assets *(in million EUR)*
2006	11	505
2007	15	771
2008	18	1,200
2009	29	1,676
2010	32	1,938
2011	30	2,430
2012	36	3,130
2013	34	3,599
2014	35	4,423
2015	38	5,569

3.9.5. Money market UCIs

The number of UCIs complying with the rules in “CESR’s Guidelines on a common definition of European money market funds” decreased by four fund units in 2015, whereas their net assets increased by 18.0%.

Development of money market UCIs

Year	Number of fund units			Net assets *(in billion EUR)*		
	Short term money market funds	Money market funds	**Total**	Short term money market funds	Money market funds	**Total**
2012	91	107	**208**	176.4	44.8	**221.2**
2013	89	109	**208**	143.2	52.7	**195.9**
2014	67	87	**154**	170.3	36.8	**207.1**
2015	67	83	**150**	196.9	47.5	**244.4**

3.9.6. SICARs

Investment strategies inherent in SICARs may be broken down into four main types: buy, build and sell; buyout instruments; mezzanine instruments and risk capital funds. In practice, combined strategies are generally used for risk capital.

Evolution of SICARs

Investment strategy	2014		2015	
	Number of fund units	Net assets *(in billion EUR)*	Number of fund units	Net assets *(in billion EUR)*
Buy, build and sell	208	12.4	211	17.2
Buyout instruments	38	7.9	36	6.9
Mezzanine instruments	19	2.6	19	2.5
Risk capital funds	123	9.8	122	10.8
Total	**388**	**32.7**	**388**	**37.4**

As regards the sector-based distribution, 176 fund units preferred not to limit their investment policy to a particular investment sector. Among the fund units having adopted a specialised policy, there was a certain concentration in the “Real estate”, “Industry”, “Technology” and “Energy” sectors.

As at 31 December 2015, the capital commitments in fund units reached nearly EUR 23.5 billion and their balance sheet total amounted to EUR 39.8 billion.

3.10. Initiators of Luxembourg UCIs

The breakdown of Luxembourg UCIs according to the geographic origin of their initiators highlights the internationalisation of the Luxembourg financial centre. Initiators of Luxembourg UCIs are spread over 69 countries.

Initiators of UCIs in Luxembourg are mostly from the United States, the United Kingdom, Germany, Switzerland, Italy, France and Belgium.

Origin of the initiators of Luxembourg UCIs

Situation as at 31 December 2015	Net assets *(in billion EUR)*	In %	Number of UCIs	In %	Number of fund units	In %
United States	767.0	21.64%	183	4.40%	1,056	7.28%
United Kingdom	581.9	16.42%	275	6.61%	1,539	10.61%
Germany	518.1	14.62%	1,487	35.75%	2,811	19.39%
Switzerland	498.9	14.08%	572	13.75%	2,737	18.88%
Italy	306.1	8.64%	152	3.67%	1,251	8.63%
France	277.9	7.84%	336	8.06%	1,363	9.40%
Belgium	150.5	4.25%	180	4.34%	1,026	7.08%
Luxembourg	78.1	2.20%	222	5.32%	571	3.94%
Netherlands	75.8	2.14%	51	1.24%	225	1.56%
Sweden	61.9	1.75%	101	2.43%	309	2.14%
Others	227.4	6.42%	601	14.43%	1,608	11.09%
Total	**3,543.6**	**100.00%**	**4,160**	**100.00%**	**14,496**	**100.00%**

3.11. Cross-border activities of UCITS and AIFs

Directives 2009/65/EC (UCITS Directive) and 2011/61/EU (AIFMD), which are transposed into Luxembourg law by the law of 17 December 2010 relating to undertakings for collective investment and by the law of 12 July 2013 on alternative investment fund managers, aim to support the development of a common investment fund market.

Both regulatory frameworks provide, i.a., for notification procedures between authorities where a UCITS or AIF wishes to market its units in another EU Member State.

The UCITS Directive also provides for measures which enable:

- the cross-border management of a UCITS by a management company of an EU Member State other than the UCITS' home Member State;
- cross-border merger operations so that a UCITS initiator having established UCITS in several EU Member States may pool assets and benefit from economies of scale;
- streamlining of platforms marketed through a more advanced specialisation or the use of master-feeder structures.

3.11.1. Freedom to provide services under the UCITS Directive

As at 31 December 2015, 59 management companies established in another EU Member State managed Luxembourg UCITS via the free provision of services.

Luxembourg UCITS managed by a management company established in another EU Member State

Home Member State of the management companies	Number of management companies managing Luxembourg UCITS	Number of managed UCITS	Number of managed fund units	Total net assets managed *(in billion EUR)*
United Kingdom	8	11	223	156.9
Germany	2	63	174	87.0
Ireland	2	4	122	41.2
France	37	45	278	38.1
Italy	6	6	111	22.9
Netherlands	3	3	25	6.6
Estonia	1	1	3	0.1
Total	**59**	**133**	**936**	**352.8**

3.11.2. Cross-border mergers and creation of master-feeder structures

As in 2014, the mergers undertaken in 2015 were mainly motivated by the search for economies of scale, particularly by the pooling of UCITS' assets which offer similar or even identical investment policies into one Luxembourg UCITS to create a group UCITS platform specifically intended for international distribution.

In 2015, the CSSF dealt with the following merger projects in accordance with the provisions and requirements of Chapter VI of the UCITS Directive:

- 120 cross-border merger projects (+160% compared to 2014) where the merging UCITS came from France, Ireland, Sweden, the United Kingdom, Portugal, Austria, Belgium, Finland, Spain, Estonia and Germany;
- 47 cross-border merger projects (+336% compared to 2014) where the receiving UCITS came from Ireland, Italy, Finland, Sweden and Malta.

Similarly, in order to seek economies of scale, some initiators of UCITS interested in limiting parallel and redundant structures chose to create master-feeder structures where a merger operation was not selected.

As regards master-feeder structures, the CSSF replied to 30 requests from Luxembourg UCITS to certify that they are eligible to act as master UCITS in accordance with Article 58 of the UCITS Directive (+15 requests compared to 2014). The home Member States of feeder UCITS were Italy, France, the Netherlands, Spain and Germany.

3.11.3. Notification procedure of Luxembourg UCITS

Luxembourg UCITS wishing to market their units in another EU Member State must comply with the notification procedure provided for in the UCITS Directive. Notifications shall be made directly between the supervisory authorities of the Member States on the basis of a complete file that the UCITS must submit to the supervisory authority of the home Member State.

In 2015, the CSSF received a total of 5,803 notification requests, i.e. an increase of 11.6% compared to the previous year. 3,581 requests were sufficiently complete to be transmitted, without further intervention, to the relevant competent authorities of the host Member States concerned. The other requests had to be returned to the intermediary in order to correct the errors in the formats and/or the content in accordance with the applicable rules. One of the aims of the UCITS regulation is to speed up the registration procedure for UCITS in another EU Member State. The CSSF has five days to process a notification request.

Unfortunately, the CSSF notes that almost 39% of the notification requests must be returned at least once to the applicant for correction before they can be transmitted to the competent authority of the host Member State.

A certain number of requests are refused due to non-compliance with the technical rules set out in Circulars CSSF 11/509 and CSSF 08/371, in particular due to the fact that the documents included in the notification to be made to the host authority have not been submitted beforehand to the CSSF in the manner prescribed by the aforementioned circulars or that the prior deposit could not be validated due to a non-compliant nomenclature.

Out of the 3,581 complete notifications that the CSSF transmitted in 2015 to the competent authorities of other host Member States, 3,477 were accepted without any objection.

As far as the notifications which had to be revised are concerned, the CSSF recommends that professionals carefully analyse the motives for refusal which are communicated to them and put in place appropriate internal controls in order to ensure that, even before the first notification to the CSSF, the rules laid down for the marketing of UCITS comply with the laws, regulations and administrative provisions applicable in the host Member States concerned.

Breakdown of the accepted notifications per EU/EEA Member State

Member State	Number
Germany	405
Italy	374
France	304
Spain	292
United Kingdom	287
Austria	252
Belgium	206
Netherlands	204
Sweden	200
Finland	185
Norway	159
Denmark	148
Portugal	99
Ireland	87
Greece	58
Czech Republic	35
Liechtenstein	31
Hungary	22
Slovakia	20
Iceland	17
Cyprus	16
Bulgaria	15
Poland	14
Estonia	12
Latvia	12
Lithuania	12
Malta	6
Romania	3
Gibraltar	2
Total	**3,477**

3.11.4. Notification procedure for AIFs

The IFMs established in Luxembourg wishing to market the AIFs they manage in another EU Member State must comply with the notification procedure provided for in Article 32 of the AIFMD. Notifications are made directly between the supervisory authorities of the Member States by means of a complete file that the IFM must submit to the supervisory authority of the home Member State. It is important to note that the marketing of AIFs pursuant to this article is reserved for professional investors. If an IFM wishes to market units or shares of AIFs to retail investors, it must first request the supervisory authorities of the targeted host Member State to provide it with the marketing conditions applicable on its territory.

A notification file submitted to the CSSF is transmitted to the competent authority of the host Member State concerned no later than 20 working days after its receipt, provided that the file is complete and compliant with the regulatory requirements. An incomplete application will be rejected and returned to the intermediary. The reasons for refusal are communicated to the intermediary which submitted the request. A duly completed and corrected notification request may be submitted at any time and the above-mentioned legal deadline starts running afresh. Despite some progress in 2015, the CSSF notes that, unfortunately, almost 57% of the notification requests must be returned at least once to the applicant for correction before they can be transmitted to the competent authority of the host Member State.

As a reminder, the documents to be provided as part of the notification procedure must be named in accordance with the requirements set out in Circular CSSF 11/509. Compliance with the requirements set out in Circular CSSF 11/509 is verified when the CSSF processes the request. The most frequently observed reasons for refusal are the use of non-compliant nomenclature, the absence of electronic signature on the issue document or the AIFM attestation as well as the submission of an incomplete notification letter with regard to the applicable regulation. In order to ensure smooth processing, the CSSF reminds professionals of the importance of subjecting the documents to be notified to upstream compliance and quality checks and to only submit a complete and reviewed notification file to the CSSF.

Breakdown of the notifications transmitted to EU/EEA Member States

Member State	Total number of sub-funds
Germany	188
United Kingdom	165
Netherlands	158
France	131
Sweden	128
Belgium	116
Italy	114
Finland	107
Denmark	99
Spain	96
Austria	94
Norway	88
Ireland	63
Portugal	31
Estonia	19
Czech Republic	19
Latvia	14
Lithuania	14
Cyprus	13
Greece	13
Bulgaria	12
Hungary	12
Poland	11
Slovakia	11
Romania	10
Croatia	9
Slovenia	9
Malta	7
Iceland	5
Gibraltar	2
Total	**1,758**

4. DEVELOPMENTS IN THE REGULATORY FRAMEWORK

4.1. CSSF Regulation N° 15-03

CSSF Regulation N° 15-03 of 26 November 2015 lays down detailed rules for the application of Article 46 of the AIFM Law on the marketing of foreign alternative investment funds to retail investors in Luxembourg.

4.2. CSSF Regulation N° 15-07

CSSF Regulation N° 15-07 of 31 December 2015 lays down the application measures of Article 42a of the law of 13 February 2007 relating to specialised investment funds as regards the requirements in relation to risk management and conflicts of interest for specialised investment funds which are not referred to in the specific provisions of Part II of this law.

4.3. CSSF Regulation N° 15-08

CSSF Regulation N° 15-08 of 31 December 2015 lays down the application measures of Article 7a of the law of 15 June 2004 relating to the investment company in risk capital (SICAR) as regards the requirements in relation to the management of conflicts of interest for SICARs which are not referred to in the specific provisions of Part II of this law.

4.4. Circular CSSF 15/609

The purpose of Circular CSSF 15/609 of 27 March 2015 is to remind the persons concerned of the importance of putting in place the required procedures and infrastructures as regards the automatic exchange of tax information. The circular also presents some amendments to the European regulatory framework, in particular the Savings Directive, the Administrative Cooperation Directive and the proposal for a directive on anti-money laundering.

4.5. Circular CSSF 15/611

The purpose of Circular CSSF 15/611 of 16 April 2015 is to remind the entities concerned of the risks related to the outsourcing of systems that allow the compilation, distribution and consultation of management board/strategic documents.

4.6. Circular CSSF 15/612

Circular CSSF 15/612 of 5 May 2015 indicates information to be submitted by an AIFM to the CSSF for each additional unregulated AIF (established in Luxembourg, in another EU Member State or in a third country) and/or for each additional regulated AIF established in a third country. The AIFM must also inform the CSSF when it ceases to manage an unregulated AIF or a regulated AIF established in a third country.

4.7. Circular CSSF 15/615

The purpose of Circular CSSF 15/615 of 11 June 2015 is to implement the guidelines on the application of the definitions in Sections C6 and C7 of Annex I of Directive 2004/39/EC (MiFID) (ref.: ESMA/2015/675) in Luxembourg.

4.8. Circular CSSF 15/627

Circular CSSF 15/627 of 3 December 2015 introduces, as from 30 June 2016, a new monthly reporting U1.1 for Luxembourg UCIs subject to the 2010 Law, SIFs subject to the law of 13 February 2007 and SICARs subject to the law of 5 June 2004.

4.9. Circular CSSF 15/633

Circular CSSF 15/633 of 29 December 2015 concerns financial information to be provided by investment fund managers and their branches on a quarterly basis. The purpose of the circular is to extend the obligation to submit financial information to all investment fund managers, namely to (i) management companies subject to Chapter 15 of the 2010 Law, (ii) management companies subject to Articles 125-1 and 125-2 of Chapter 16 of the 2010 Law and (iii) authorised external IFMs subject to the AIFM Law.

5. PRUDENTIAL SUPERVISORY PRACTICE

5.1. Prudential supervision

5.1.1. Objectives and instruments of supervision of UCIs

The CSSF's permanent supervision aims to ensure that UCIs subject to its supervision observe all legal, regulatory or contractual provisions relating to the organisation and operation of UCIs, as well as to the distribution, investment or sale of their securities. The objective of this supervision is to ensure adequate investor protection as well as stability and security in the sector. This supervision is based, among others, on the:

- examination of the periodic financial information which UCIs must submit to the CSSF;
- analysis of the information collected by the CSSF with respect to the specific reporting (e.g. leveraged UCITS, money market UCIs) and ad hoc reporting;
- analysis of annual reports which UCIs must publish for their investors;
- analysis of the long form reports of UCIs[7] and management letters of UCIs issued by the *réviseur d'entreprises* (statutory auditor) and which must be immediately transmitted to the CSSF;
- analysis of the statements made in accordance with the circular on the protection of investors in case of a NAV (net asset value) calculation error and correction of the consequences resulting from non-compliance with the investment rules applicable to UCIs;
- on-site inspections carried out by CSSF agents.

5.1.2. Objectives and instruments of supervision of management companies subject to Chapter 15 and Chapter 16 of the 2010 Law and of AIFMs subject to the AIFM Law

The CSSF ensures that these companies comply with all the legal and regulatory provisions which concern their organisation and functioning. This permanent supervision is based in particular on the:

- verification of compliance with the conditions for obtaining and maintaining authorisation;
- examination of the annual financial reports which must be submitted to the CSSF;
- analysis of the reports drawn up by the Internal Audit during the past year;
- analysis of the information on the state of the Compliance function and on the main observations made in this context;

[7] In accordance with Circular CSSF 02/81, the long form reports of UCIs relate only to UCITS and UCIs subject to Part II of the 2010 Law.

- analysis of the risk management procedures;
- on-site inspections carried out by CSSF agents.

5.2. Review of financial information for the CSSF and the STATEC

In accordance with Circulars IML 97/136, CSSF 07/310, CSSF 08/348 and CSSF 08/376 and pursuant to Article 147 of the 2010 Law, Article 58 of the SIF Law and Article 32 of the SICAR Law, the central administrations of Luxembourg UCIs must transmit financial information to the CSSF by electronic means, on a monthly (table O1.1.), half-yearly (table K3.1) and yearly (tables O4.1. and O4.2.) basis.

The deadline to transmit the monthly financial information is 10 days following the reference date, which is in principle the last day of each month. The deadline for communicating the half-yearly financial information is 45 days after the reference date. As regards yearly financial information, the reference date is the closing date of the financial year. The deadline for transmitting the information is four months for UCITS governed by Part I of the 2010 Law and six months for UCIs governed by Part II of the 2010 Law and SIFs.

As far as monthly and half-yearly financial information is concerned, the CSSF considers that UCIs must, on the one hand, strictly observe the defined deadline for the transmission to the CSSF and, on the other hand, pay due attention when preparing the above-mentioned tables so as to ensure that the format and content are correct.

The CSSF carries out quality and coherence controls on the data received and takes, where necessary, sanction measures in cases where the reporting entities do not comply with their obligations. In this context, the CSSF reminds that it published “FAQ concerning O1.1. Reporting” in order to clarify some recurring questions in relation to table O1.1.

5.3. Specific supervision carried out in 2015 based on annual and half-yearly reports, management letters and long form reports in accordance with Circular CSSF 02/81

5.3.1. Results of the specific supervision

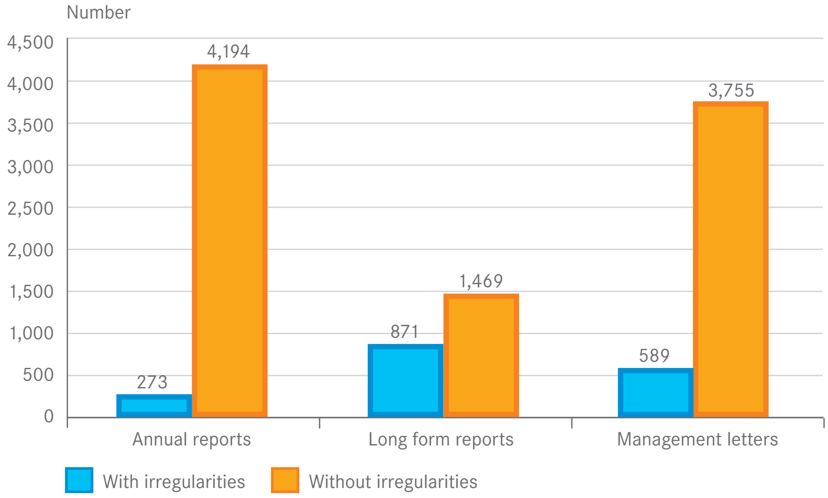
In the framework of the review of the annual and half-yearly reports, management letters and long form reports[8], the CSSF had to take decisions, in the form of injunctions, formal requests and recommendations to the attention of the *dirigeants* (directors) of some UCIs. These decisions were designed to remedy organisational deficiencies noted by the *réviseurs d’entreprises agréés* (approved statutory auditors) in the reports or management letters.

In 2015, the CSSF sent 137 letters to require corrective measures in order to remedy the deficiencies identified during the review of the documents in question.

The following table highlights the number of annual reports, the number of long form reports and the number of management letters in which one or several deficiencies were noted by the *réviseur d’entreprises agréé* and which were subject to a review by the CSSF. It should be noted that the reports and management letters received in 2015 mainly concerned the year 2014.

[8] While the annual reports and management letters concern UCI(TS), SIFs and SICARs, the long form reports only concern UCIs subject to the 2010 Law, i.e. UCITS Part I and UCIs Part II.

Annual reports, long form reports and management letters received in 2015



In 2015, the proportion of annual reports in which the *réviseur d'entreprises agréé* issued an opinion with an observation paragraph, a qualification of the annual accounts or did not issue an opinion, represented 6% of all the annual reports received.

The proportion of long form reports in which the *réviseur d'entreprises agréé* observed a deficiency or a point to improve was 37% of all the reports received.

14% of the management letters received included a comment from the *réviseur d'entreprises agréé*, a large proportion of which were related to simplified procedures under Circular CSSF 02/77 on the protection of investors in case of NAV calculation error and correction of the consequences resulting from non-compliance with the investment rules applicable to UCIs.

As far as the data of the table below is concerned, it should be pointed out that each intervention in the form of a letter may cover several recommendations or formal requests.

Breakdown of interventions according to themes

Theme	Relative share
Circular CSSF 02/77	19.6%
Fight against money laundering and terrorist financing	19.6%
Fees and commissions	12.3%
Investments	11.7%
Transmitted information (LFR/ML)	9.2%
Reconciliation	8.6%
Legal	4.9%
Valuation	3.7%
Accounting	3.1%
Risk management	2.5%
Late trading/Market timing	1.8%
Annual reports	1.2%
Conflicts of interest	1.2%
Portfolio turnover	0.6%
Total	**100.0%**

The shortcomings identified as regards the fight against money laundering and terrorist financing concerned in particular the investor account documentation and the application of CSSF Regulation N° 12-02 of 14 December 2012 on the fight against money laundering and terrorist financing. The CSSF reminds that, pursuant to CSSF Regulation N° 12-02, the *dirigeants* of an investment company or of an IFM are responsible for ensuring the implementation of the identification and assessment of money laundering and terrorist financing risks to which a UCI is exposed, of the categorisation of all the UCI's customers according to the different risk levels defined and of an effective mitigation of the money laundering and terrorist financing risks to which a UCI is exposed. This risk management and mitigation policy must be defined in written form and the regular controls must be duly documented.

5.3.2. Recurring or specific issues

• Content of the annual report

In the context of the analysis of the annual reports of umbrella UCIs, the CSSF noted situations in which the annual report did not include sub-funds that had been liquidated or closed down during the period under review in the annual report concerned.

In relation to this, the CSSF reminds that:

- the annual reports of umbrella UCIs, UCITS and SIFs must include, in accordance with the provisions of Section III of Chapter L of Circular IML 91/75[9], in addition to the entity's aggregate financial statements, the financial statements for each sub-fund including, in particular, for UCIs, UCITS and SIFs, the information included in Schema B of Annex I to the 2010 Law and in the annex to the SIF Law, respectively;
- information on the liquidation or closure of UCI, UCITS and SIF sub-funds is considered as "significant information" within the meaning of Article 151(3) of the 2010 Law and Article 52(4) of the SIF Law, respectively. Consequently, an annual report which does not include all the sub-funds, including the sub-funds liquidated or closed down during the year under review, will not be considered as complete pursuant to the legal and regulatory provisions in force. Moreover, such an incomplete annual report implies that the financial statements it comprises also infringe the fundamental principles of a true and fair view and of the intangibility of the opening balance set out in Articles 26(3) and 51(1)(f) of the law of 19 December 2002 on the trade and companies register as well as the accounting and annual accounts of companies.

The CSSF also reminds that the *réviseur d'entreprises agréé* of the entity must perform controls on the sub-funds which have been liquidated or closed down during the year under review, referring in particular to the notes issued by the IRE.

The above considerations must apply by analogy also to multiple compartment SICARs.

As a general rule, the CSSF reiterates that the annual report of UCIs, UCITS, SIFs and SICARs must take into account all significant events which occurred between the closing date of the financial statements and the audit report date relating to these financial statements. Moreover, the annex to the financial statements must include the information on the nature and financial impact of significant events which occurred after the date of the balance sheet closing which have not been considered in the profit and loss account or balance sheet in accordance with the provisions of Article 65 of the law of 19 December 2002 on the trade and companies register as well as the accounting and annual accounts of companies.

• Management letters

In the context of the analysis of the management letters, the CSSF noted that in many cases, the management letter did not include the comments of the UCI's *dirigeants* on the observations made by the *réviseur d'entreprises agréé*.

In this context, the CSSF reminds that, as per Chapter P of Circular IML 91/75, the *réviseur d'entreprises agréé* of a UCI must communicate to the CSSF the observations s/he made within the scope of the audits s/he carried out during the financial year. These observations, which have been shared and discussed with

[9] "Multiple compartment UCIs must include in their financial reports separate information on each of their compartments as well as aggregate information on all of their compartments."

the *dirigeants* of the UCI during the audits, generally take the form of a management letter. The CSSF expects that the UCI *dirigeants* take a position on the comments made and indicate, in particular, how they will take account of these observations and that this written position must be communicated to the CSSF as an integral part of the management letter.

5.4. On-site inspections

On 1 July 2015, the department "UCI on-site inspections" was created within the UCI departments, with the purpose of preparing, carrying out and following up on-site inspections on the governance of IFMs, based on a long-term inspection plan using a risk-based approach. The department also coordinates and follows up on all the on-site inspections conducted within the UCI departments.

The department "Prudential supervision and risk management" performs thematic on-site inspections in relation to risk management, the procedures linked to Circular CSSF 02/77 and monetary UCIs.

The UCI departments also carry out on-site inspections at service providers of pension funds and securitisation undertakings.

In 2015, the UCI departments carried out 11 on-site inspections which break down as follows.

Breakdown of the UCI departments' on-site inspections

Theme of the on-site inspection	Number
Risk management	5
IFM governance	3
NAV errors and non-compliance with investment rules	1
Securitisation undertakings	1
Central administration	1

On-site inspections relating to depositary bank activities and, since 1 July 2015, central administration activities for investment vehicles are carried out by the "On-site Inspection" department of the CSSF. Detailed explanations on on-site inspections carried out by this department are provided in Chapter XIV "Instruments of supervision".

5.5. Circular CSSF 02/77 on the protection of investors in case of NAV calculation error and correction of the impact of non-compliance with investment rules

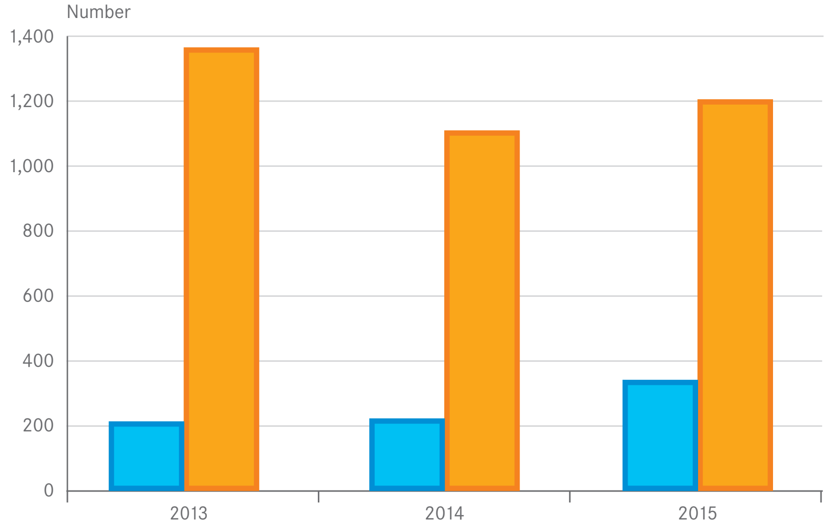
5.5.1. Declarations made in 2015 on the basis of Circular CSSF 02/77

In 2015, the CSSF received 1,551 declarations on the basis of Circular CSSF 02/77[10], against 1,338 declarations in 2014, which represents an increase of 15.9%.

Among these declarations, 343 cases (226 in 2014) concerned NAV calculation errors and 1,208 cases (1,112 in 2014) concerned non-compliance with investment rules.

[10] Even if Circular CSSF 02/77 does not automatically apply to SIFs, the CSSF nevertheless considers that SIFs may either opt for the application of Circular CSSF 02/77 or set other internal rules that must remain within reasonable limits with respect to the SIF's investment policy. In this context, the CSSF considers that SIFs that did not set specific internal rules must apply Circular CSSF 02/77.

Evolution of the number of NAV calculation errors and instances of non-compliance with investment rules reported to the CSSF over the last three years



	2013	2014	2015
NAV calculation errors	215	226	343
Non-compliance with investment rules	1,368	1,112	1,208

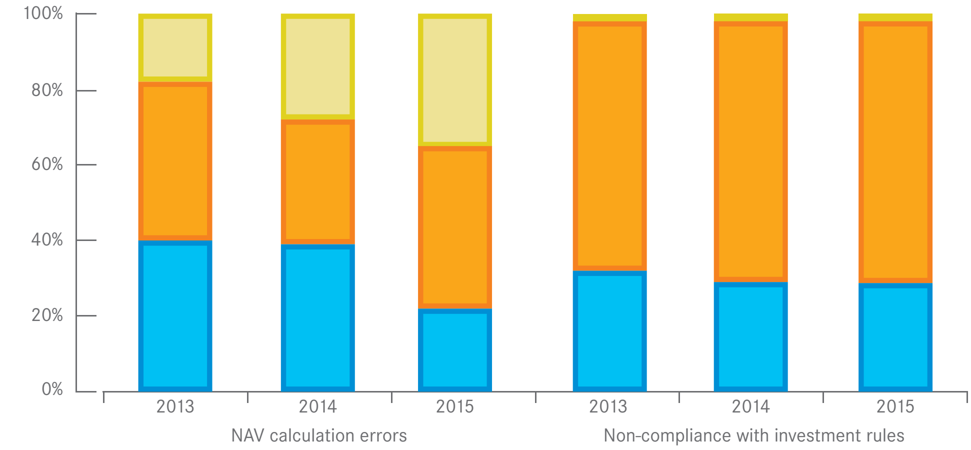
In 2015, the number of instances of non-compliance with investment rules slightly increased (+8.6%) compared to 2014. In contrast, the number of NAV calculation errors experienced a more significant increase (+52%), largely due to an increase in the number of notifications received for SIFs (+39%).

As regards more specifically the declarations of NAV calculation errors received in 2015, 22 cases among the declarations for which the normal procedure is applicable could not be closed on 31 December 2015. This is due to the fact that the CSSF is still awaiting either further information or confirmations from the *réviseur d'entreprises agréé*, as provided for in Circular CSSF 02/77.

In 2015, 267 cases out of 343 NAV calculation errors (162 cases out of 226 cases in 2014) applied the simplified procedure, insofar as the compensation amounts did not exceed EUR 25,000 and the amounts to be reimbursed to an investor did not exceed EUR 2,500. Out of the 1,208 instances of non-compliance with investment rules, the simplified procedure was applied in 1,182 cases. In 841 instances of non-compliance with investment rules (70%), no prejudice was caused.

The following graph plots the respective proportions, over the last three years, of the cases of simplified procedure (i.e. where the amounts of compensation were not higher than EUR 25,000 and the amounts to be reimbursed to an investor were not higher than EUR 2,500), cases of standard procedure (i.e. where the above-mentioned amounts were exceeded) and instances of non-compliance with investment rules or NAV calculation errors which were settled without any negative impact for investors and UCIs.

Simplified procedure



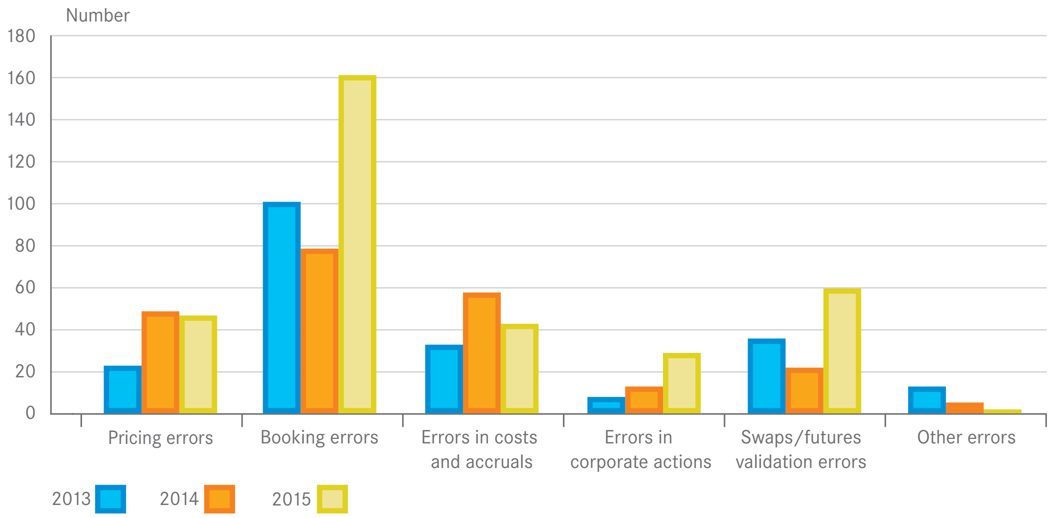
	NAV calculation errors 2013	2014	2015	Non-compliance with investment rules 2013	2014	2015
Normal procedure	18%	28%	35%	2%	2%	2%
Notification without prejudice	42%	33%	43%	66%	69%	70%
Simplified procedure	40%	39%	22%	32%	29%	28%

The origin of NAV calculation errors can be divided into five categories: pricing errors, booking errors, errors in the calculation of costs and accruals, errors in the valuation of swaps or futures and other errors.

In 2015, NAV calculation errors were mainly due to booking errors (47%), errors in the valuation of swaps or futures (17%) and pricing errors (14%).

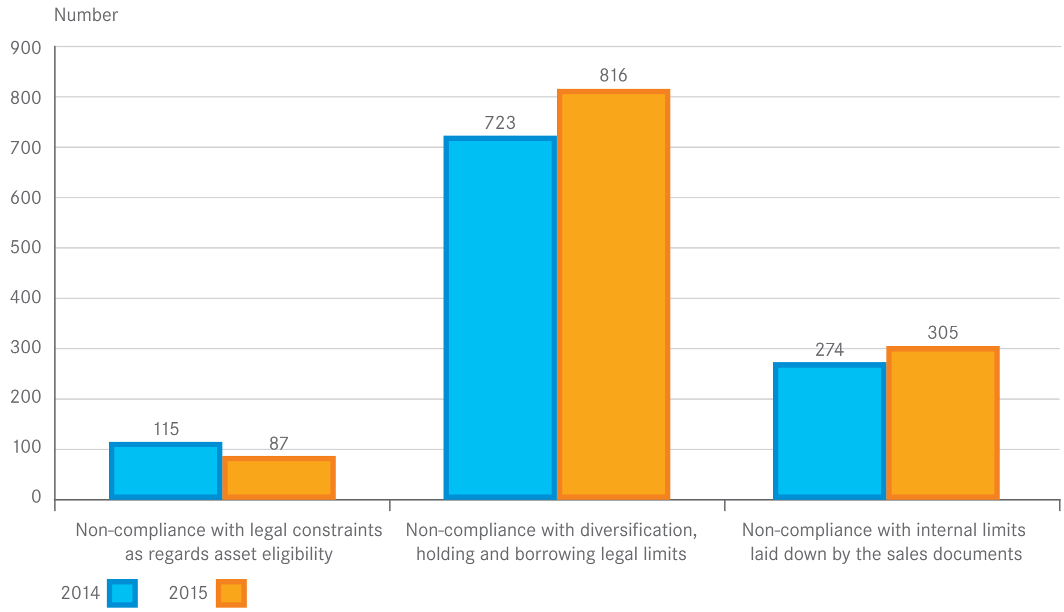
The following graph shows the development of the causes of NAV calculation errors since 2013 and highlights that booking errors, which grew rapidly compared to 2014, remain the main cause of NAV calculation errors. It should also be noted that the increase in errors in the valuation of swaps or futures can be explained by the application of an erroneous exchange rate to all the sub-funds of a UCI (26 sub-funds impacted).

Evolution of the origin of NAV calculation errors over the last three years



The following graph shows the origin of the instances of non-compliance with investment rules over the last two years. In 2015, 68% of the non-compliance instances were due to non-compliance with the legal limits provided for in the 2010 Law.

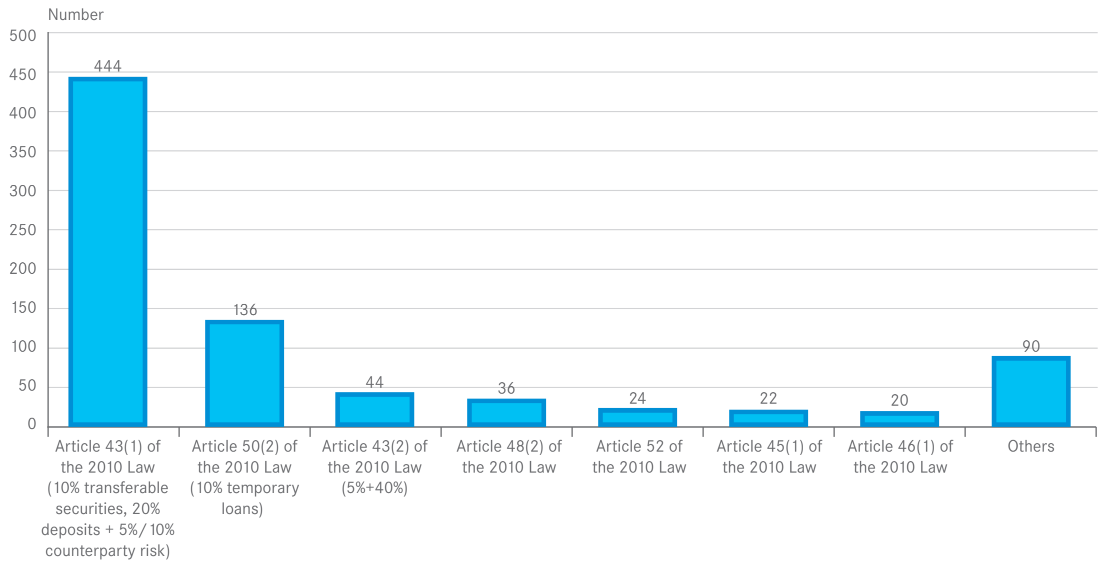
Evolution of the origin of the instances of non-compliance with investment rules over the last two years



The following graph shows the distribution of the instances of non-compliance with the legal limits. Thus, a large portion comes from non-compliance with Article 43(1) of the 2010 Law, of which, in particular, the 20% NAV limit in deposits, followed by instances of non-compliance with Article 50(2) limiting temporary loans to 10% of the NAV and Article 43(2) establishing the rule of 5%-40% of the NAV with the same issuers.

In particular, as far as the 20% limit in deposits with a same counterparty is concerned, the CSSF draws the attention of *dirigeants* of investment companies or IFMs on the requirement to have in place, for each UCITS, an organisational tool ensuring that the cash management linked to the UCI's investment and capital transactions are made in strict compliance with this limit.

Breakdown of the instances of non-compliance with the legal limits of diversification, holding and borrowing



5.5.2. Compensation paid following correction of NAV calculation errors or instances of non-compliance with investment rules

The table below sets out the detailed compensation amounts notified in 2014 and 2015[11].

Compensation in 2014 and 2015

(in EUR)	Investors		UCI/Sub-fund	
	2014	2015	2014	2015
Total amount of compensation following NAV calculation errors	6,342,112.04	7,147,140.79	2,829,374.41	4,990,726.44
Total amount of compensation following non-compliance with investment rules[12]	127,405.32	6,337.90	2,096,052.93	3,351,160.95

As regards the NAV calculation errors, an overall increase by 13% has been recorded for the compensation amounts paid out in the framework of the 2015 reports compared to the 2014 reports. The main reasons for this increment are a higher number of NAV calculation errors for SIFs and one NAV calculation error impacting two UCIs with higher compensation amounts.

As regards the instances of non-compliance with investment rules, the amounts of compensation paid to investors within the context of the declarations made in 2015 decreased drastically (-95%) compared to the declarations made in 2014.

Finally, an increase in the compensation paid to UCIs was recorded for both non-compliance with investment rules and NAV calculation errors. This trend results from a higher number of reports (+15.9%) received in 2015.

5.6. Risk profile requirements for UCITS

Article 13(3)(c) of CSSF Regulation N° 10-4 requires the permanent risk management function of management companies and of investment companies which have not designated a management company within the meaning of Article 27 of the 2010 Law ("SIAG") to provide advice to the board of directors as regards the definition of the risk profile of each managed UCITS. In point III.2 of Circular CSSF 11/512, the CSSF specified that management companies and SIAGs must define, for each managed UCITS, a risk profile resulting from a process of risk identification which takes into account all risks that may be material for the managed UCITS. This risk profile must then be approved by the board of directors of the management company or SIAG before launching the UCITS.

In accordance with Article 45(2)(d) of CSSF Regulation N° 10-4, management companies and SIAGs must also establish, implement and maintain a documented system of internal limits concerning the measures used to manage and control the relevant risks to which each managed UCITS is exposed, taking into account all risks which may be material to the UCITS as referred to in Article 43 of said regulation and ensuring consistency with the UCITS risk profile.

In this context, the CSSF noted during the instruction process of new UCITS, during the review of risk management procedures established in accordance with Circular CSSF 11/512 and in the context of its inspections on the risk management arrangements of management companies and SIAGs, that these requirements were not always fulfilled.

The CSSF therefore recalls the importance of this risk profile and of the internal limits system in the risk management arrangement of a management company or SIAG. To be more specific, the CSSF considers that this risk profile must first include a qualitative description and an explanation on the risk appetite for all risks which may be material to the managed UCITS, in accordance with its investment policy. Then, the CSSF also expects management companies and SIAGs to include in this risk profile the risk level indicators

[11] The data as at 31 December 2015 are not complete as the final compensation amounts had not been finalised for a certain number of files.

[12] The amount of compensation paid to investors, which results from instances of non-compliance with investment rules, corresponds to the instances of non-compliance whose regularisation led to a NAV calculation error above the applicable materiality threshold.

(i.e. VaR, volatility, ratings, credit spreads sensitivity) and the related internal limits, including a validation of all of these items by the board of directors.

The risk profile drawn up and formalised in a separate document must, where applicable, be updated in the context of a decision of the board of directors whenever it is impacted by a material modification (i.e. modification of the UCITS strategy or investment policy, modification of an internal limit).

5.7. Ad hoc surveys

In 2015, the CSSF carried out various ad hoc surveys within the context of the macroprudential supervision of UCIs and in order to reply to a specific information request from the European Systemic Risk Board (ESRB).

The analysis of the responses to the survey carried out in September 2014 on the EU regulation on OTC derivatives, central counterparties and trade repositories (EMIR) with IFMs and Luxembourg AIFs managed by non-EU AIFMs showed that the entities must, generally speaking, improve their procedures in order to be fully compliant with the requirements introduced by EMIR.

The CSSF noted that some improvements are necessary.

- In general, the entities selected consider that they comply with the EMIR reporting requirement. However, based on the reports received from the trade repositories, an important number of transactions transmitted are rejected, which means that the derivative transactions reporting is not carried out correctly.
- The entities selected consider, in general, that hedging derivative contracts are not subject to EMIR requirements. However, EMIR applies to investment and hedging derivative contracts.
- Where the EMIR obligations are delegated, the entities selected have generally not put in place an adequate supervision of this delegation. Nonetheless, entities subject to EMIR are ultimately responsible for compliance with their obligations under this regulation, even in case of delegation.

In addition, the CSSF noted that IFMs authorised to provide investment portfolio management services on a discretionary and individualised basis do not, in general, report the derivative contracts concluded in the context of the discretionary portfolio management to a trade repository.

In December 2015, as a consequence of these observations, the CSSF questioned a sample of entities as to the reasons for their non-compliance with EMIR, the actions taken to comply with EMIR and the timing necessary to be again compliant with the obligations introduced by EMIR.

In January 2015, the CSSF requested a sample of entities, composed of the most significant UCITS, Part II UCIs and SIFs in terms of net assets, to fill in a questionnaire to collect, among others, information on the assets under management (gross and net), the notional amount and the market value of financial derivative instruments, the investor types, the countries of distribution, the exposures linked to (reverse) repos and securities lending/borrowing, borrowings and collateral received or deposited.

This survey notably showed that the use of (reverse) repos and securities lending/borrowing was relatively limited in 2014, in terms of both number of UCIs/UCITS/SIFs using these transactions and exposure with respect to net assets.

In October 2015, the CSSF participated in an ESRB survey on systemic risk which might arise from market liquidity issues and on liquidity risk management market practices, in order to come up, where applicable, with possible policy options. This survey concerned bond, mixed and monetary funds with net assets of more than EUR 500 million as at 30 June 2015 and authorised under the 2010 Law or AIFM Law.

5.8. Meetings

In 2015, 379 meetings were held between representatives of the CSSF and UCI intermediaries. These meetings concerned the presentation of new projects by UCI initiators, UCI restructurings and the application of the laws and regulations pertaining to UCIs.

5.9. Publication of Frequently Asked Questions (FAQs) on UCITS

On 8 December 2015, the CSSF published FAQs concerning the 2010 Law on its website. These FAQs are regularly updated and available at http://www.cssf.lu/en/supervision/ivm/ucits/faq/.

6. IT SUPPORT FOR THE SUPERVISION OF UCIS

The mission of the "Coordination of the UCI departments' specific IT tools" department (UCI SI department) is to develop and maintain specific applications developed for the UCI departments. In this context, the UCI SI department works closely together with the agents of the UCI departments as well as with the support, maintenance and development divisions of the CSSF's IT department.

The applications managed by the UCI SI department provide various features in order to facilitate and to accelerate the processing of instruction files and authorisation requests, as well as to support the CSSF agents in the context of their supervisory tasks. Reminder applications enable, for example, agents to follow up on compliance with reporting obligations and to send reminders in case of non-receipt of regulatory reports. Other applications allow for the establishment of various statistics, for issuing certificates, for exploiting data collected via forms or for following up on the liquidation of supervised entities.

In addition to the development of new applications and the daily maintenance of existing applications, the agents of the UCI SI department ensure the continuous development of the applications by taking into account the needs of the users, identifying improvements based on experience as well as developments in the regulatory framework.

The UCI SI department is composed of agents who have experience in the UCI area and/or IT technical skills. This synergy of skills fosters the understanding of the needs of the UCI departments and the design of specialised applications. In 2015, the UCI SI department pushed its strategic direction further towards new technologies. Moreover, project management within the UCI SI department is performed through SCRUM methodology, an Agile methodology which seems to be the most suitable to implement projects within a constantly developing industry. The main advantage of this methodology consists in being able to follow the progress of the projects in a concrete manner so that the users can quickly approve the solution in order that it can be adjusted.

The year 2015 was marked by the review and recasting of electronic reporting to be submitted to the CSSF. In this context, a new monthly reporting has been developed. It replaces the current O1.1 reporting, extends the information to be transmitted, includes SICARs into its scope and, from a technical point of view, introduces a new format (XML), which will allow standardised and automated exchanges between the authority and the depositors.

Agents hired in 2015 and 2016: Departments "Authorisation and supervision of investment fund managers, regulated investment funds other than UCITS and securitisation undertakings" and "Prudential supervision and risk management"

Left to right: Sébastien GÉRAULT, Pauline BRUNEL, Olivier CIRON, Carole MACULAN, Emilie GASPARD, Johny Filipe DE OLIVEIRA LOUREIRO, Marjorie SERAFINO, Marc DA CANAL

CHAPTER IX

SUPERVISION OF SECURITISATION UNDERTAKINGS

SUPERVISION OF SECURITISATION UNDERTAKINGS

During 2015, the CSSF received four applications for registration on the official list of authorised securitisation undertakings subject to the law of 22 March 2004 on securitisation.

Two securitisation undertakings were granted authorisation by the CSSF in 2015, namely the following multiple-compartment securitisation undertakings:

- Crosslend Securities S.A.
- Opus (Public) Chartered Issuance S.A.

The securitisation undertakings Morgan Stanley (Luxembourg) S.A. and Taranis Securities S.A. were deregistered from the official list of authorised securitisation undertakings in 2015.

As at 31 December 2015, 32 securitisation undertakings were registered on the official list of authorised securitisation undertakings (idem at the end of 2014). The balance sheet total of authorised securitisation undertakings exceeded EUR 30.3 billion at the end of 2015, i.e. an increase of EUR 6.5 billion against 2014.

The submitted application files reveal that securitisation transactions mainly consist in repackaging transactions in the form of structured products issues linked to various financial assets, notably equity indices, baskets of shares or units of UCIs, as well as in securitisation of debt, loans and other comparable assets. Repackaging transactions are mainly synthetic securitisation transactions in respect of the risk transfer technique.

In general, the securities issued by the securitisation undertakings are bonds and subject to foreign law. In the vast majority of cases, the articles of incorporation nevertheless reserve the right for the securitisation undertaking to execute securitisations by issuing shares. Some securitisation undertakings also have the possibility to issue warrants. As at 31 December 2015, 11 of the 32 authorised securitisation undertakings issued securities admitted to trading on a regulated market.

To date, no application file for a securitisation fund has been submitted to the CSSF. Neither has the CSSF received any application file for a fiduciary-representative under Luxembourg law, even though the law of 22 March 2004 on securitisation has established a specific legal framework for these independent professionals in charge of representing investors' interests.

The CSSF expects securitisation activities to continue their slow but ongoing pace in 2016.

CHAPTER X

SUPERVISION OF PENSION FUNDS

1. DEVELOPMENTS OF PENSION FUNDS IN 2015

1.1. Major events and trends observed in 2015

As at 31 December 2015, 14 pension funds subject to the law of 13 July 2005 on institutions for occupational retirement provision in the form of pension savings companies with variable capital (sepcav) and pension savings associations (assep) were registered on the CSSF's official list of pension funds.

In 2015, one pension fund subject to the law of 13 July 2005 was deregistered from the official list following the decision of the sponsoring undertaking's group to fund pension plans via a single insurer.

The year 2015 was mainly marked by the development of new cross-border pension schemes within existing pension funds. Within the framework of the Budapest Protocol, which organises the practical implementation of the relations between authorities for cross-border activities, as defined in Article 20 of Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision (IORP Directive), eight notifications were sent by the CSSF to the competent authorities of the host Member States concerned during the year.

The CSSF expects cross-border activities to continue developing, notably through the setting-up of pension schemes that are conceived and rolled out for international groups.

1.2. Pension funds activities

The majority of the pension funds in Luxembourg manage one or several pension schemes set up by Luxembourg or foreign companies for their employees.

As at 31 December 2015, two pension funds managed cross-border pension schemes. These pension funds provide, or intend to provide, their services to sponsoring undertakings established in Ireland, the Netherlands, the United Kingdom, Germany, Italy and Belgium, as well as to non-EU sponsoring undertakings.

Out of the 14 pension funds registered on the CSSF's official list, 12 have adopted the legal form of a pension savings association and two have adopted the legal form of a pension savings company with variable capital.

The pension savings companies with variable capital and most of the pension savings associations have been set up with multiple compartments. For all these pension funds, each compartment constitutes a segregated part of the concerned entity's assets and liabilities.

All pension schemes managed by pension saving companies with variable capital are defined contribution schemes. However, pension savings associations offer multiple types of pension arrangements, including schemes with defined contributions, defined benefits as well as hybrid schemes.

As regards the payment of the retirement benefits, in some schemes, members may opt for benefits in the form of a lump sum or an annuity. Where a member opts for payment of the pension in the form of an annuity, the benefits are generally outsourced with an insurance undertaking.

A certain number of schemes also offer additional benefits in the event of disability, in the event of death, reversion in favour of the surviving spouse and orphans' pensions. In practice, these additional benefits are outsourced through a contract concluded with an insurance undertaking.

1.3. Prudential supervisory practice

In 2015, no changes have been made to the Luxembourg legal framework governing pension funds.

The prudential supervision exercised by the CSSF aims at ascertaining that the pension funds comply with the law and their obligations. Any change to the constitutional documents of the pension fund, to its managing body or its service provider must be notified forthwith to the CSSF and is subject to the CSSF's approval.

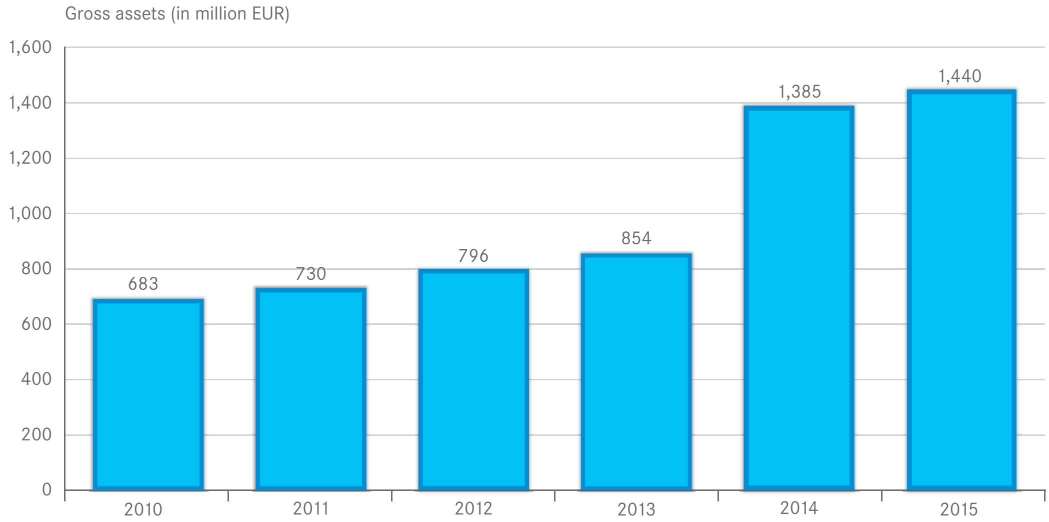
It should be borne in mind that the pension rules must inform, among other things, on the pension benefits provided and their terms. In principle, the employer subscribes to the pension commitments of its members towards which the employer remains committed in terms of financing.

The constitutional documents, notably the pension rules of the pension scheme(s) must be signed by the representatives of the pension fund, as well as by the sponsoring undertaking which is, a priori, paying the contributions on behalf of the members and expatriates. Where a regime was set up by an international group for expatriates temporarily detached in one or several of its subsidiaries abroad, the CSSF accepts that this ultimate parent of the group undertakes on behalf of the subsidiaries, insofar as the right of signature on behalf of subsidiaries is ensured through separate contract.

1.4. Developments of pension fund assets

At the end of 2015, gross assets of pension funds totalled EUR 1,440 million against EUR 1,385 million as at the end of 2014, representing a 4% growth. This rise is mainly due to the transfer, during 2015, of a pension scheme until then outside the supervisory scope of the CSSF onto the official list of institutions for occupational retirement provision supervised by the CSSF.

Developments of pension fund assets



1.5. Developments of assets according to the type of pension scheme

The following table highlights the breakdown of assets between defined benefit or hybrid pension schemes and defined contribution schemes.

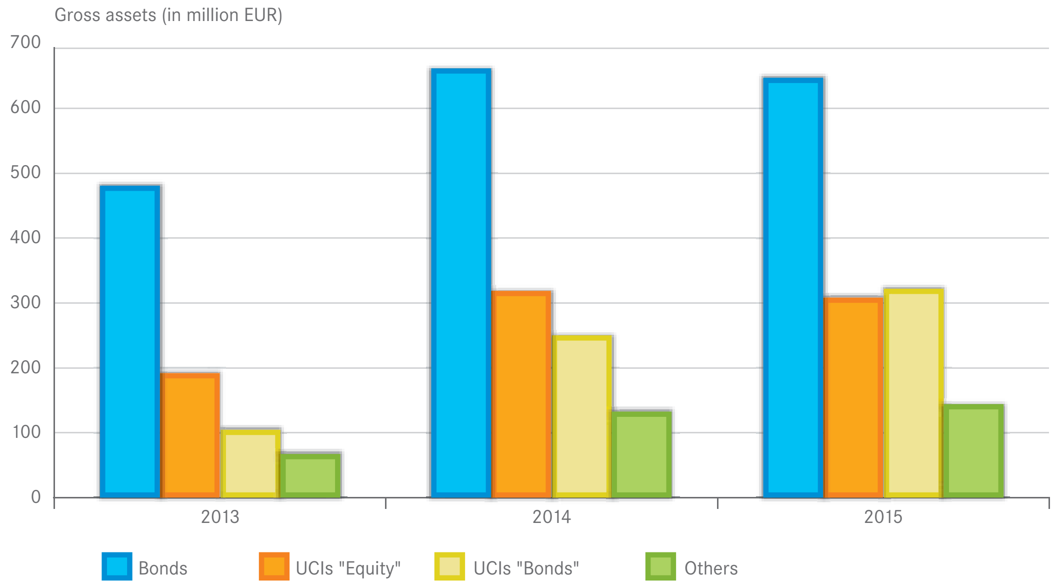
At the end of 2015, gross assets of the defined benefit pension schemes amounted to EUR 1,040 million and represented 72% of overall gross assets of pension funds. The assets of defined contribution schemes amounted to EUR 202 million as at 31 December 2015.

Developments of assets according to the type of pension scheme

1.6. Allocation of pension fund assets

In 2015, pension funds invested primarily in bonds, representing a total of EUR 654 million, i.e. 45% of total gross assets of pension funds. As at 31 December 2015, the total amount of investments by pension funds in investment funds amounted to EUR 679 million, of which 46% (i.e. EUR 312 million) in equity funds, 48% (i.e. EUR 327 million) in bond funds and 6% (i.e. EUR 40 million) in mixed funds, monetary funds and alternative investment funds.

Allocation of pension fund assets

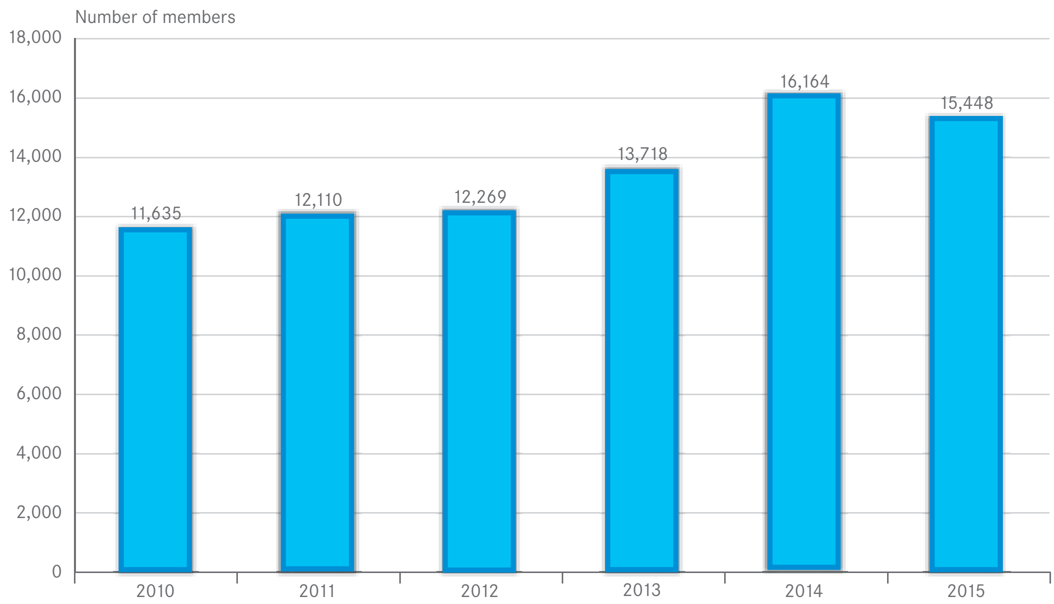


1.7. Developments in the number of pension fund members

At the end of 2015, the pension funds had 15,448 members against 16,164 at the end of 2014. This fall is mainly due to the transfer of one pension fund to an insurance product outside the supervisory scope of the CSSF.

Analysing the population of members of pension funds supervised by the CSSF at the end of 2015 shows that the proportion of international members is rising compared to the previous years, which reflects the opening of institutions for occupational retirement provision to cross-border activities.

Developments in the number of pension fund members



2. DEVELOPMENTS OF LIABILITY MANAGERS IN 2015

Following the registration of Aon Belgium on the official list of professionals authorised to act as liability managers for pension funds subject to the law of 13 July 2005, the number of liability managers of pension funds approved by the CSSF amounted to 17 as at 31 December 2015.

Agents hired in 2015 and 2016: Department "Authorisation and supervision of UCITS and pension funds"

Left to right: Charlotte BÉJEAN, Sophie DENONCIN, Katya PETKOVA, Antonin PARISSE, Monja MAJERUS, Jo RUPPERT, Jens GABLER

CHAPTER XI

SUPERVISION OF SECURITIES MARKETS

1. Approval of prospectuses for securities relating to offers to the public or admissions to trading on a regulated market
2. Takeover bids
3. Mandatory squeeze-out and sell-out of securities
4. Supervision of issuers of securities of which the CSSF is the competent authority
5. Enforcement of financial information
6. Supervision of markets and market operators
7. Investigations and cooperation

1. APPROVAL OF PROSPECTUSES FOR SECURITIES RELATING TO OFFERS TO THE PUBLIC OR ADMISSIONS TO TRADING ON A REGULATED MARKET

1.1. Application of the law of 10 July 2005 on prospectuses for securities (Prospectus Law)

In 2015, no amendment was implemented with regard to the applicable regulation on prospectuses for securities. The activity at the end of the year was marked by Directive 2014/51/EU of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (Omnibus II Directive) which includes certain measures which became applicable on 1 January 2016.

As regards prospectuses, the Omnibus II Directive amends the procedure for the filing of final terms by the issuers. Since 1 January 2016, the issuers must indeed file the final terms with the competent authority of the home Member State which, in turn, will communicate them to ESMA. Through delegation, the filing of the final terms with ESMA by the competent authority of the home Member State also stands for the filing of the final terms with the host Member State via the ESMA Register.

In order to comply with these new requirements, the CSSF, as competent authority for issuers which have Luxembourg as home Member State, informed in December 2015 the filing agents in charge of the final terms of the new procedures implemented via the publication of Circular CSSF 15/632 amending Circular CSSF 12/539. As from 1 April 2016, the filing of final terms will be made with a form available on the CSSF website and they will be automatically transferred to ESMA. Given the number of documents sent, the filing agents will have to pay particular attention to the dispatch of the final terms, especially with respect to the information to be reported in the form such as the host Member States or the date of approval of the base prospectus.

Aware of the fact that companies generally need to access the capital markets quickly, the CSSF tries to be constantly responsive to the filing agents in order to reduce the approval times to a minimum. The department "Supervision of securities markets" made itself again more available in 2015, so that the persons in charge of drawing up the prospectuses could have direct phone contact with the prospectus reviewers. To this end, the form for submitting files which must be filled in for each submission allows the readers to contact, if necessary, directly the persons in charge of drawing up the prospectuses. These phone conversations enable to manage more easily complex problems and to reduce the approval times in these cases.

In this context, it is also noteworthy that the 129 requests for an opinion sent at prospectus.help@cssf.lu and dealt with before the submission of the files concerned, allowed saving substantial time during the subsequent review of the prospectuses. Indeed, the heads of division in charge of dispatching files try, if possible, to allocate the review of the prospectuses to the readers who dealt with the corresponding requests for an opinion. This year again, these requests for an opinion concerned mainly the financial statements to be provided in a prospectus to be approved or the information to be provided in order to best describe the underlying assets in the case of a securitisation transaction.

In 2015, in accordance with Article 23(4) of the Prospectus Regulation, the CSSF approved four prospectuses, each including an omission of information due to irrelevance.

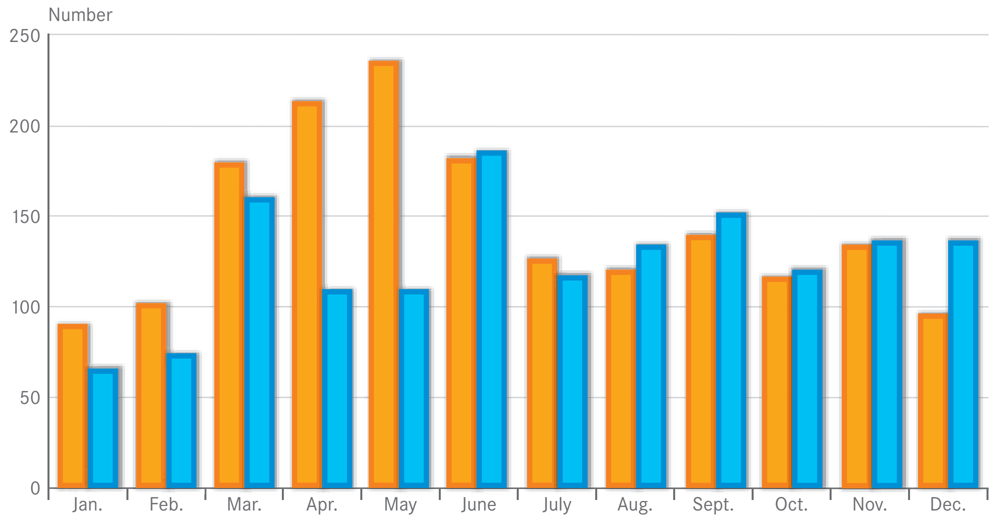
Finally, in 2015, the CSSF did not receive any request for the omission of information pursuant to Article 10 of the Prospectus Law.

1.2. Approvals and notifications in 2015

1.2.1. Documents approved by the CSSF in 2015

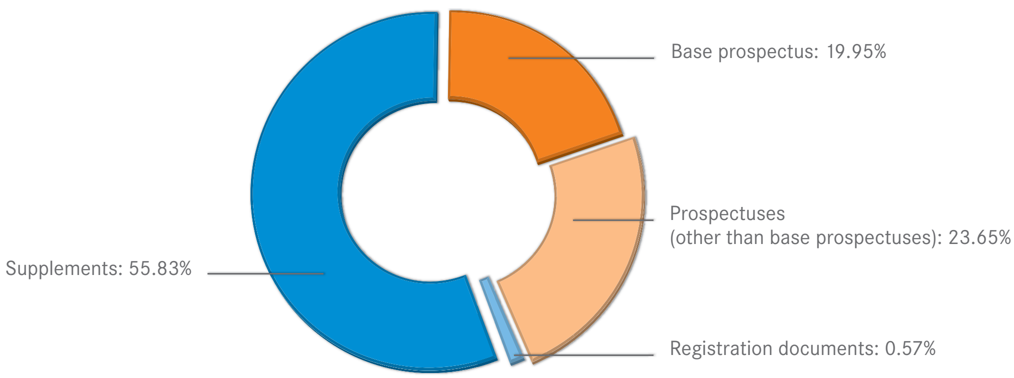
The number of documents approved by the CSSF decreased compared to 2014, with a total of 1,569 approved documents in 2015 (of which 371 prospectuses, 313 base prospectuses, nine registration documents and 876 supplements) against 1,731 the previous year (-9.36%). Since the number of base prospectuses approved in 2015 remained stable compared to the preceding year, the decrease recorded in 2015 mainly results from the decline in the number of approved supplements (-11.96%) and approved prospectuses (-8.17%).

Development in the number of documents approved by the CSSF



	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
2014	80	102	180	214	236	182	127	121	140	117	135	97
2015	66	75	161	110	170	186	118	135	152	121	137	138
Variation	-17.50%	-26.47%	-10.56%	-48.60%	-27.97%	2.20%	-7.09%	11.57%	8.57%	3.42%	1.48%	42.27%

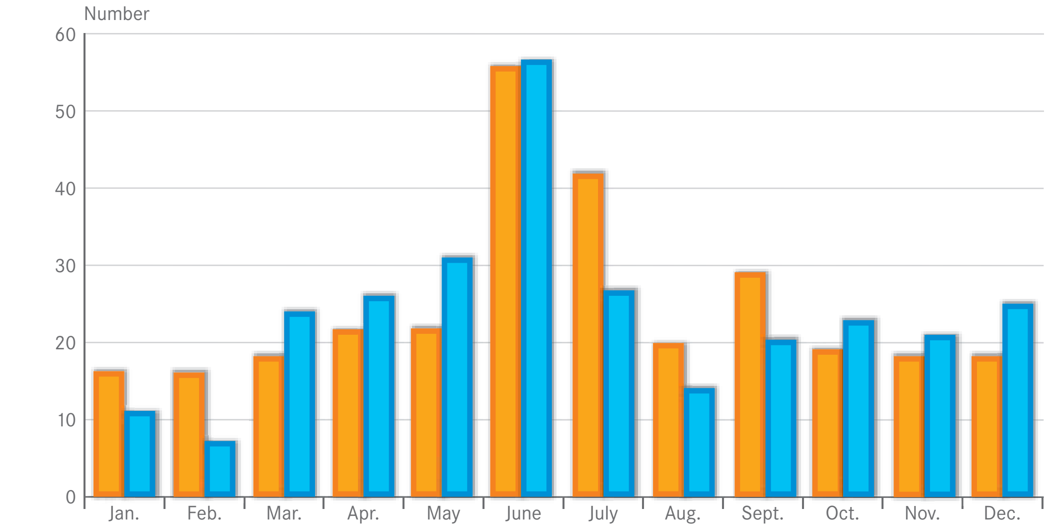
Distribution of documents approved in 2015



1.2.2. Documents drawn up under the European passport regime in 2015

In 2015, the CSSF received 1,241 notifications (relating to 286 prospectuses and base prospectuses and to 955 supplements) from the competent authorities of several EEA Member States, against 1,260 notifications (relating to 292 prospectuses and base prospectuses and to 968 supplements) in 2014 (-1.51%). The number of notifications from EEA remained stable between 2014 and 2015.

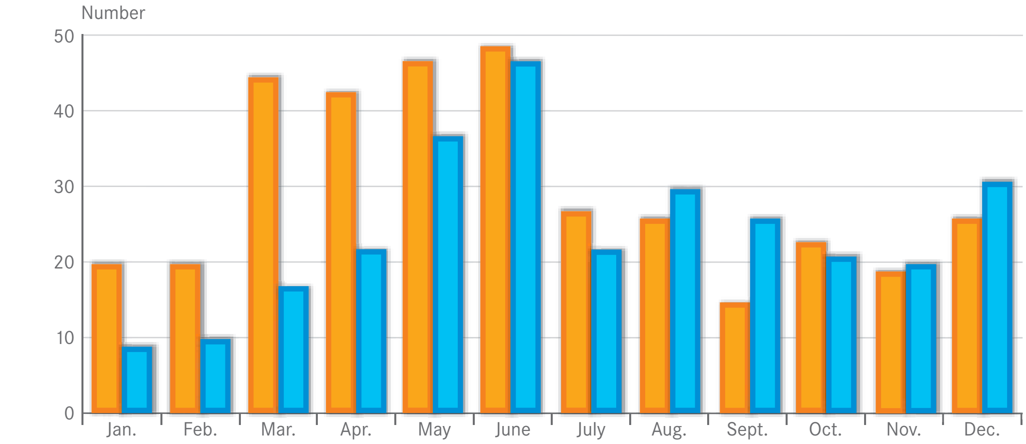
Development in the number of notifications (prospectuses and base prospectuses) received by the CSSF



	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
2014	16	16	18	22	21	56	42	20	29	18	17	17
2015	11	7	24	26	31	57	27	14	20	23	21	25
Variation	-31.25%	-56.25%	33.33%	18.18%	47.62%	1.79%	-35.71%	-30.00%	-31.03%	27.78%	23.53%	47.06%

In 2015, the CSSF sent notifications for 892 CSSF-approved documents (291 prospectuses and base prospectuses and 601 supplements) to the competent authorities of the EEA Member States, against 1,036 documents (360 prospectuses and base prospectuses and 676 supplements) in 2014, representing a 13.90% decrease. This decrease seems to result mainly from the decline in the number of approvals in 2015.

Development in the number of notifications (prospectuses and base prospectuses) sent by the CSSF



	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
2014	20	20	45	43	47	49	27	26	15	23	19	26
2015	8	10	17	22	37	47	22	30	26	21	20	31
Variation	-60.00%	-50.00%	-62.22%	-48.84%	-21.28%	-4.08%	-18.52%	15.38%	73.33%	-8.70%	5.26%	19.23%

1.2.3. Approvals

In 2015, the activity was divided into two phases. From January to July, a decrease of almost 21% was recorded compared to the same period in 2014. Then, from August to December, approvals increased by nearly 12%. Given that in 2014, approvals have evolved the other way round, the decrease of the second half of 2014 extended to the first half of 2015. Moreover, the uncertainty which affected the European financial markets during the first months of 2015 certainly contributed to this development. Many issuers postponed their bond issues to the second half of the year, once the markets were reassured, in particular, by the agreements made with Greece in mid-July 2015. Throughout the year, a 9.36% decrease was recorded in 2015.

As regards approvals of prospectuses and standardised prospectuses in particular, a similar development with an overall decline of just over 8% was observed. However, the end of the year and notably August, September and December were particularly busy. Approvals of base prospectuses remained relatively stable this year with a slight drop of 2.49%. Approvals of supplements decreased by almost 12% but followed the same trend as the previous years with peaks in March, May, August and November.

Regarding the approval of documents relating to issues of asset-backed securities, 2015 recorded a significant increase of 80% in base prospectuses compared to 2014. However, this increase must be put into perspective because it results from the important activity of one particular issuer in this area. The approvals of prospectuses for this type of securities remained stable with 66 prospectuses approved against 65 in the previous year.

Finally, in 2015, the CSSF approved 258 files relating to Luxembourg issuers, among which 70 prospectuses, 50 base prospectuses, two registration documents and 136 supplements. Only three files were subject to an approval in relation to an offer to the public or admission to trading of shares.

1.3. Questions raised in 2015

1.3.1. Issue-specific summary included in final terms

If the base prospectus foresees in the form of final terms that an issue-specific summary must be attached to these final terms, the issuer commits itself to comply with it, even in case of issue of securities with a denomination which is equal to or higher than EUR 100,000. The CSSF draws the issuers' attention to the fact that, in order to be able to omit the summary with respect to these issues, the issuer may, during the drafting of the base prospectus, disclose the issue-specific summary as an option by placing it, for example, in square brackets.

1.3.2. Inclusion of the locations of the offer to the public in final terms

In accordance with the annexes to Regulation (EC) No 809/2004, the inclusion of blanks in the form of final terms of a base prospectus in order to indicate the EEA Member States where the offer to the public will take place is not required. However, in accordance with Annex XXI of the above-mentioned regulation, this information may be included as an option by the issuer wishing to do so.

The CSSF considers that this information, even if it is optional, is very important in relation to the filing of the final terms to ESMA and, by this means, to the host Member States. Therefore, it is highly recommended that the issuers include this option in their forms of final terms.

2. TAKEOVER BIDS

2.1. Offer documents approved by the CSSF

In 2015, the CSSF did not have to approve or recognise any offer document in relation to takeover bids under the law of 19 May 2006 implementing Directive 2004/25/EC of 21 April 2004 on takeover bids (Law on Takeover Bids).

2.2. Files for which the CSSF was competent as authority of the Member State in which the target company has its registered office

In 2015, the CSSF was competent as authority of the Member State in which the target company has its registered office in the context of the following two takeover bids:

- the voluntary takeover bid by Deutsche Annington Immobilien SE (now Vonovia SE) on the shares of the Luxembourg company Gagfah S.A. and the subsequent mandatory sell-out; and
- the voluntary takeover bid by Grupo Industrial Saltillo, S.A.B de C.V. on the shares of the Luxembourg company Automotive Components Europe S.A. admitted to trading on the Warsaw Stock Exchange for which the offer document was published on 27 October 2015.

• Deutsche Annington Immobilien SE - Gagfah S.A.

In the framework of the voluntary takeover bid by Deutsche Annington Immobilien SE (now Vonovia SE) on the shares of the Luxembourg company Gagfah S.A., the CSSF cooperated with the Bundesanstalt für Finanzdienstleistungsaufsicht for the approval by the latter of the offer document relating to this operation. At the final closing of the acceptance period of the takeover bid, Deutsche Annington Immobilien SE gathered an acceptance percentage of the takeover bid of over 90% of the share capital and voting rights of Gagfah S.A. so that the remaining shareholders of Gagfah S.A. benefited from the right of mandatory sell-out in accordance with the provisions of Article 16 of the Law on Takeover Bids. The sell-out procedure that followed the takeover bid took place under the supervision of the CSSF. The CSSF considered that it was the responsibility of the offeror to enable the minority shareholders to exercise the mandatory sell-out right concerned, in particular, by publishing all the information necessary to this end, including the price(s) of the mandatory sell-out. It follows from Article 16(1) of the Law on Takeover Bids that, with respect to mandatory sell-outs arising from a public exchange or mixed offer, a cash price must be offered to minority shareholders, at least, as an option. In this file, the CSSF considered that the presumption of fair price under Article 15(5) of the Law on Takeover Bids (to which reference is made, among others, by Article 16(2) of the Law on Takeover Bids) could not alone be the basis to determine the amount of the cash option because the price of the offer was a mixed price which did not include a cash only price. Under these conditions, the CSSF considered that the determination of the fair price of the mandatory sell-out based on the mixed price of the offer was a complex operation and that the use of an independent expert was required. For the determination of the fair price of the mandatory sell-out, including with respect to the dividend attached to the shares that had been offered in exchange within the context of the takeover bid, an independent expert was appointed by Deutsche Annington Immobilien SE upon request by the CSSF.

• Grupo Industrial Saltillo, S.A.B. de C.V. - Automotive Components Europe S.A.

In the framework of the voluntary takeover bid by Grupo Industrial Saltillo, S.A.B. de C.V. on the shares of Automotive Components Europe S.A., the CSSF cooperated with the Polish authority Komisja Nadzoru Finansowego. On 23 December 2015, after the settlement of the takeover bid, the offeror held shares representing over 95% of the capital carrying voting rights and over 95% of the voting rights of the target company. On the same day, Grupo Industrial Saltillo, S.A.B. de C.V. started the mandatory squeeze-out procedure as referred to in Article 15 of the Law on Takeover Bids, which took place under the supervision of the CSSF. This mandatory squeeze-out procedure ended, on 30 December 2015, with the acquisition of all the remaining shares of Automotive Components Europe S.A. by the offeror. By virtue of the powers conferred on it under the Law on Takeover Bids, the CSSF ensured, in accordance with the provisions of Article 15 of that law, that a fair price was guaranteed in consideration of the mandatory squeeze-out exercised on the remaining shares of Automotive Components Europe S.A.

2.3. Issues regarding the Law on Takeover Bids raised in 2015

The CSSF dealt with a request for derogation based on Article 4(5) of the Law on Takeover Bids concerning the obligation to launch a mandatory takeover bid within the meaning of Article 5(1) of the Law on Takeover Bids.

Thus, on 2 November 2015, the CSSF granted a derogation from the obligation of Article 5(1) of the Law on Takeover Bids to launch a takeover bid for the shares of the Luxembourg company Corestate Capital Holding S.A. (hereinafter the "Company"). The derogation was granted in the wider context of the project to list the shares of the Company on the regulated market of the Frankfurt Stock Exchange and was granted to the German bank Joh. Berenberg, Gossler & Co. KG (hereinafter the "Bank") in its capacity as lead underwriter for the placement of the shares offered to the public. The underwriting services should have been provided by the Bank together with Bankhaus Lampe KG based on an underwriting agreement with the Company dated 22 October 2015. These service provisions were described in the prospectus published on 22 October 2015 by the Company. The CSSF granted the derogation mainly because the nature and terms of the underwriting services that the Bank had committed to provide implied that during the few days during which the Bank would hold the shares of the Company and, as the case may be, exceed the control threshold of Article 5(3) of the Law on Takeover Bids, the Bank did not intend to formally exercise the control it held over the Company but to provide underwriting services with the view to place the shares with the public. The derogation was granted for a limited period starting 3 until 7 November 2015 provided that the Bank commits not to exercise the voting rights attached to the shares held by it under or in relation to the underwriting agreement. The decision of the CSSF was published in a press release (No 15/46). On 3 November 2015, the Company announced the cancellation of the listing due to unfavourable market conditions. Consequently, the derogation granted by the CSSF became devoid of purpose.

During 2015, the CSSF dealt several times with issues raised in relation to the scope of application of the Law on Takeover Bids.

Thus, the CSSF reminded that a voluntary bid through which a shareholder wishes to increase control, within the meaning of Article 5(3) of the Law on Takeover Bids, that it already has over the Luxembourg target company does not constitute a takeover bid pursuant to Article 2(1) of the Law on Takeover Bids (for further details, please refer to the CSSF Annual Report 2007 on the bid by Companhia de Bebidas das Amercias on the shares of Quilmes Industrial).

Moreover, the CSSF specified that a public exchange offer made by a 100% subsidiary of a Luxembourg target company to shareholders of the latter does not constitute a takeover bid within the meaning of Article 2(1) of the Law on Takeover Bids because the offeror did not intend to become a controlling shareholder among the other shareholders. In this case, the public exchange offer was part of a restructuring operation of the group and did not lead to changes in the control by final investors in the group.

2.4. One-off amendment to the Law on Takeover Bids

The Law on Takeover Bids was amended on one particular point by the law of 18 December 2015 on the failure of credit institutions and certain investment firms. The new paragraph 6 of Article 5 of the Law on Takeover Bids provides that the obligation to launch a mandatory takeover bid must not apply in case of the use of resolution tools, powers and mechanisms referred to in Part I, Title II, Chapters III to XI of the above-mentioned law of 18 December 2015.

2.5. Requests for advice in relation to the Law on Takeover Bids

In order for the CSSF to be able to deal with specific advice requests in relation to the Law on Takeover Bids, the names of the parties involved must be indicated.

3. MANDATORY SQUEEZE-OUT AND SELL-OUT OF SECURITIES

3.1. Application of the law of 21 July 2012 on mandatory squeeze-out and sell-out of securities of companies currently admitted or previously admitted to trading on a regulated market or having been offered to the public (Squeeze-Out/Sell-Out Law)

Pursuant to Article 6 of the Squeeze-Out/Sell-Out Law, the CSSF is the competent authority to ensure that the provisions of this law are applied. Among the competences entrusted to the CSSF under this legislation is the reception of notifications to be made by any majority shareholder in accordance with the provisions of Article 3(1), completed by Article 10(1) as regards the transitional regime of the Squeeze-Out/Sell-Out Law. The CSSF would like to remind that these notifications are part of the pre-requisites of information which must be complied with prior to any exercise of the mandatory squeeze-out right or sell-out right of securities and aim to ensure the possibility for the different parties concerned by this legislation to exercise their respective rights. As at 1 March 2016, the CSSF received 32 notifications from 11 different majority shareholders made pursuant to Articles 3(1) and 10(1) of the Squeeze-Out/Sell-Out Law.

The CSSF must also be informed of the exercise of any mandatory squeeze-out right or sell-out right pursuant to the provisions of Article 4(3) of the Squeeze-Out/Sell-Out Law on any exercise of the mandatory squeeze-out right by a majority shareholder and Article 5(2) on the exercise of the mandatory sell-out right by a securities holder.

In 2015, two mandatory squeeze-out procedures were started and/or finalised with respect to the companies Metro International S.A. (hereinafter Metro) and Colt Group S.A. (hereinafter Colt).

• Metro

The mandatory squeeze-out procedure on the Class A and Class B shares of Metro was started by Kinnevik Media Holding AB (hereinafter the "Majority Shareholder") in April 2015. However, this procedure was only completed at the beginning of 2016, due to the opposition by a minority shareholder of Metro to the mandatory squeeze-out project of the Majority Shareholder.

As a reminder, after announcing the exercise of its right of mandatory squeeze-out on the shares of Metro on 22 April 2015, the Majority Shareholder published a proposed price of SEK 0.90 per share of Class A and SEK 0.94 per share of Class B of Metro as well as a first valuation report drawn up by the independent expert KPMG Luxembourg, Société coopérative on 4 May 2015. Following an opposition to the squeeze-out project by a minority shareholder of Metro and upon the CSSF's request, a second valuation report dated 11 December 2015 was prepared by Grant Thornton Sweden AB acting as the second independent expert appointed by the CSSF.

In the light of the information available to the CSSF in the framework of the mandatory squeeze-out procedure and, in particular, the valuation reports of the above-mentioned experts, the CSSF decided, in accordance with the provisions of Article 4(7) of the Squeeze-Out/Sell-Out Law, that the fair price to be paid by the Majority Shareholder in the framework of the mandatory squeeze-out procedure on the shares of Metro was SEK 0.90 per share of Class A and SEK 0.94 per share of Class B. Following the publication of the CSSF's decision via a press release dated 11 February 2016, the Majority Shareholder informed the shareholders of Metro of the date and terms of final payments of the price of the shares of Metro subject to the mandatory squeeze-out.

• Colt

The company Colt was subject to a mandatory squeeze-out procedure on its shares under the provisions of Article 4 of the Squeeze-Out/Sell-Out Law. This procedure was started by Lightning Investors Limited (hereinafter "Lightning"), an entity jointly controlled by FMR LLC and FIL Limited (entities belonging to the Fidelity group), which became majority shareholder of Colt within the meaning of Article 1(1) of the Squeeze-Out/Sell-Out Law after a takeover bid on the shares launched by Lightning followed by a share buyback launched by Colt.

It should be noted that the takeover bid on Colt by Lightning was not subject to the provisions of Directive 2004/25/EC of 21 April 2004 on takeover bids as transposed in the United Kingdom and in Luxembourg given the pre-existing control of Lightning over Colt within the meaning of Article 5(3) of the Law on Takeover Bids. With respect to the operations described above, the shares of Colt were withdrawn from the admission to trading and the official listing on the London Stock Exchange on 10 September 2015 before being subject to the mandatory squeeze-out procedure launched by Lightning under the provisions of the Squeeze-Out/Sell-Out Law.

On 1 December 2015, Lightning published in a press release its decision to exercise its right of mandatory squeeze-out on all the shares of Colt still held by minority shareholders in accordance with Article 4 of the Squeeze-Out/Sell-Out Law. Lightning then made public the proposed price of GBP 1.90 per share of Colt in the framework of this procedure of mandatory squeeze-out as well as a valuation report relating to these securities drawn up by KPMG Luxembourg, Société coopérative, acting as independent expert pursuant to the provisions of Article 4(5) of the Squeeze-Out/Sell-Out Law.

In the absence of valid opposition to the project of mandatory squeeze-out, the CSSF accepted and published, on 25 January 2016, the price of GBP 1.90 per share of Colt as fair price in accordance with the provisions of Article 4(6) of the Squeeze-Out/Sell-Out Law. Lightning then informed the shareholders of Colt of the date and arrangements for the final payment of the price of the shares subject to the mandatory squeeze-out.

3.2. Issues regarding the Squeeze-Out/Sell-Out Law raised in 2015

In the framework of the mandatory squeeze-out or sell-out procedures and notifications of the majority shareholders or in case of information requests regarding the application of the Squeeze-Out/Sell-Out Law, the CSSF had to consider the application of a certain number of provisions of this law.

With respect to the application of Article 4(6) of the Squeeze-Out/Sell-Out Law, the CSSF reiterated that, in principle, it has to accept any reasoned opposition to a project of mandatory squeeze-out when it is made by a minority shareholder in accordance with the substantial rules governing this right to opposition as laid down in the above-mentioned article.

However, this principle has certain limits as regards the reasons of opposition likely to be accepted by the CSSF. Thus, the CSSF specified that an opposition to a project of mandatory squeeze-out cannot be accepted when the opposer gives no reason at all or reasons which are obviously irrelevant or unserious in the light of the project of mandatory squeeze-out of the majority shareholder. Among the reasons that the CSSF considers as obviously irrelevant or unserious is the case where the opposition of a minority shareholder is based on his sole personal situation without any relation to the project of mandatory squeeze-out affecting all the minority shareholders of the company concerned.

3.3. End of the transitional period

As regards Article 10 of the Squeeze-Out/Sell-Out Law, attention is drawn to the end of the transitional regime provided for by this law in relation to the mandatory squeeze-out or sell-out for certain companies, the securities of which could have been withdrawn from trading on a regulated market (or withdrawn from the official listing on a stock exchange or market operator of which Luxembourg is the home Member State) since 1 January 1991. This transitional regime ceased to apply on 1 October 2015.

4. SUPERVISION OF ISSUERS OF SECURITIES OF WHICH THE CSSF IS THE COMPETENT AUTHORITY

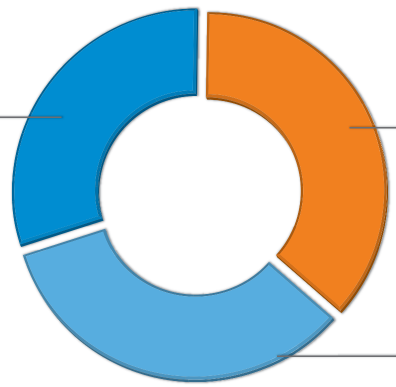
4.1. Issuers subject to supervision

Pursuant to the law of 11 January 2008 on transparency requirements for issuers of securities (Transparency Law), the CSSF is in charge of the supervision of issuers falling within the scope of this law. As at 3 March 2016, 573 issuers were subject to the supervision of the CSSF as Luxembourg was their home Member State within the meaning of this law. In 2015, Luxembourg was confirmed as the home Member State for 38 issuers, whereas 76 issuers no longer fell within the scope of the Transparency Law, mainly because the securities issued by these entities matured or were redeemed early. The list of issuers supervised by the CSSF is available on the CSSF's website (section "Supervised Entities").

Out of the 573 issuers supervised by the CSSF, 193 are Luxembourg issuers, of which 44 issuers of shares and two issuers whose shares are represented by depositary receipts in respect of shares admitted to trading on a regulated market. Among these Luxembourg issuers, 11 are banks, 12 are securitisation undertakings authorised pursuant to Article 19 of the law of 22 March 2004 on securitisation, 33 are securitisation undertakings not authorised pursuant to Article 19 of said law and six are UCIs.

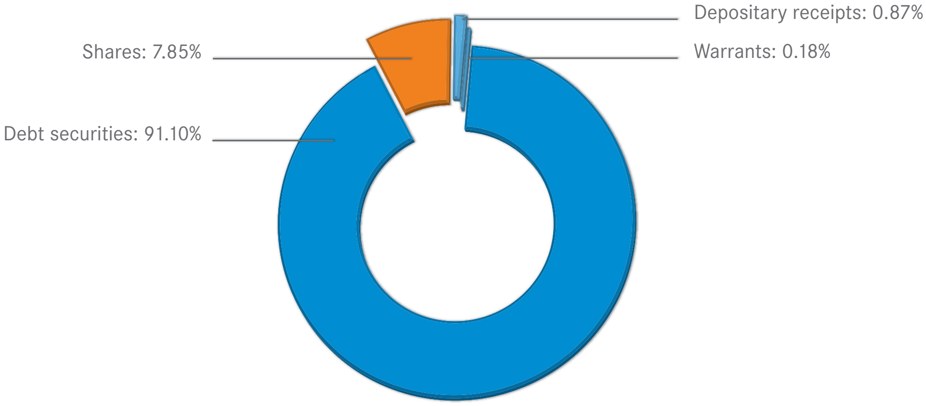
207 issuers have their registered office in another EEA Member State and 173 issuers are established in a third country (outside the EEA).

Breakdown of issuers according to country



In 2015, two issuers of shares were added to the list of issuers subject to the supervision of the CSSF. During the same period, five Luxembourg issuers of shares were excluded from the scope of the Transparency Law, either because the issuer decided to delist or because the stock exchange made that decision following the bankruptcy of an issuer or because the issuing company transferred its registered office to another EEA Member State or following the merger of an issuer with another company.

Breakdown of issuers according to the type of securities admitted to trading



4.2. Reviews in relation to the Transparency legislation

4.2.1. Periodic information

The review of the periodic information to be drawn up by issuers of securities of which Luxembourg is the home Member State pursuant to the Transparency Law continued during the 2015 review campaign. The CSSF sent 55 reminders, issued 14 injunctions and imposed nine administrative fines, pursuant to Article 25 of the Transparency Law, in relation to annual and half-yearly financial reports. The work carried out shows that, overall, the issuers were aware of their obligations in relation to the Transparency legislation and maintained their level of compliance in this regard.

The CSSF published the names of the Luxembourg issuers subject to the Transparency Law which failed to publish their annual and half-yearly financial reports as required by Articles 3 and 4 of the Transparency Law. The CSSF also requested the suspension from trading on the regulated market of securities issued by two issuers for failing to act in response to orders of the CSSF and to comply with the information requests of the CSSF in relation to the publication of their 2014 annual financial reports. The suspension of the securities issued by these two issuers was lifted on 30 December 2015.

The ten-year period which started on 1 January 2005 and during which the issuers, that benefited from the exemption under Article 30(6) of the Transparency Law, were exempted from the obligation to publish their half-yearly financial reports in accordance with Article 4 of the Transparency Law, is now over. In this context, the CSSF published Press release 15/23 on 22 May 2015 in order to inform the issuers concerned which, overall, complied with their obligations to publish the half-yearly financial reports.

4.2.2. Ongoing information

In 2015, the CSSF intensified its reviews of notifications relating to the acquisition or disposal of major holdings. In total, the CSSF received about 200 notifications relating to major holdings. The review of these notifications led the CSSF to issue 11 warnings and to impose one administrative fine.

The main infringements noted during the reviews consisted of late notification and complete notification omissions. The warnings, issued notably due to late notifications, involve that the holder or issuer concerned will be monitored more strictly in relation to its notifications of major holdings for a period of 18 months.

The CSSF also noted shortcomings in the disclosure of final beneficial owners in relation to notifications of major holdings.

As pointed out in the 2010 Annual Report, the obligations to notify major holdings, provided for in Article 8, also apply to final beneficial owners of voting rights indirectly holding voting rights within the meaning of Article 9 of the Transparency Law and, thus, not only to direct shareholders. More precisely, in the case of voting rights which are held through the intermediary of a controlled undertaking, Article 9(e) of the Transparency

Law requires a notification pursuant to Article 8 by the natural or legal persons indirectly holding these voting rights. The notion of "controlled undertaking" is to be understood within the meaning of Article 1(4) of the Transparency Law. Section 2 of Circular CSSF 08/349 as well as FAQ No 23 specify the notification requirements laid down in Article 9(e) and the exemption of Article 11(3) of the Transparency Law.

As far as these requirements are concerned, the CSSF still notes that some holders omit to notify and, particularly, in cases of holdings of companies controlled by natural persons.

The CSSF admits that a person acting as direct holder of voting rights complies with his/her legal requirements regarding his/her major holdings when s/he notifies them on his/her own behalf. However, as already mentioned above, the CSSF would like to point out that if the direct holder of voting rights is controlled by one or more other persons, the latter are also subject to obligations to notify major holdings. For transparency reasons, in order to ensure the notification of complete information and given the fact that the direct holders are likely to be related or to have contact with the final beneficial owners, the CSSF encourages the direct holders to raise awareness of the persons controlling them on their obligations regarding major holdings.

It should also be noted that in case the parent undertaking carries out the notification on behalf of a controlled undertaking, the latter is exempted within the meaning of Article 11(3). The CSSF would like to specify that this exemption does not only apply for notifications carried out by the parent undertaking but also for notifications by the final beneficial owner of controlled undertakings, particularly if the latter is a natural person.

Finally and as mentioned below, the new standard form for notification of major holdings drawn up by ESMA (ref.: ESMA/2015/1597) requires some additional information in the framework of notifications prepared for a group.

4.2.3. Companies specialised in the dissemination of regulated information

In 2015, the CSSF assessed the dissemination channels of companies specialised in the dissemination of regulated information, the list of which is published on the CSSF website. All these dissemination channels were found to be compliant with the criteria mentioned in FAQ No 10 regarding transparency and to fulfil the requirements of Article 13(2) of Grand-ducal Regulation of 11 January 2008 on transparency requirements for issuers of securities. Thus, the names of these specialised companies were kept on the list published by the CSSF on its website.

4.3. Review of the Transparency Directive

As far as the main amendments introduced by Directive 2013/50/EU are concerned, the CSSF provides the following clarifications which are partially included in Press release 15/49 of 27 November 2015.

4.3.1. Determination of the home Member State

The rules regarding the determination of the home Member State underwent certain amendments. Thus, the issuers whose transferable securities are already admitted to trading on a regulated market and whose choice was not made public before 27 November 2015 will be subject to stricter rules. The issuers which did not make their choice public and which did not inform the authorities concerned within a time limit of three months as from 27 November 2015, may have a home Member State assigned by default for administrative reasons.

In this context, the CSSF accepts and encourages issuers to use the new standard form for notification of home Member State (ref.: ESMA/2015/1596) published by ESMA on 22 October 2015. The form is available on the CSSF website under Supervision > Securities markets > Transparency > Forms.

4.3.2. Notifications of major holdings

Several amendments were made to the obligations of notification of major holdings. The definition of financial instruments was amended in order to cover all instruments with similar economic effect to the holding of shares to which voting rights and entitlements to acquire such shares are attached. For financial instruments which provide exclusively for a cash settlement, the new rules lay down that the number of voting rights is calculated on a "delta-adjusted" basis in order to reflect the exposure of the holder to the underlying instrument. Furthermore, the amendments lay down that the number of voting rights held directly or indirectly is aggregated with the number of voting rights relating to the financial instruments held directly or indirectly.

Detailed rules for the implementation of these new provisions are laid down in Commission Delegated Regulation (EU) 2015/761 of 17 December 2014 supplementing Directive 2004/109/EC with regard to certain regulatory technical standards on major holdings. Moreover, ESMA published an indicative list of financial instruments that are subject to notification requirements[1].

In anticipation of the transposition of these amendments into Luxembourg law, the CSSF specified in Press release 15/49 of 27 November 2015 that it accepts and encourages the persons subject to the obligations to notify major holdings to refer to these new provisions when notifying and also to use the new standard form for notification of major holdings published by ESMA (ref.: ESMA/2015/1597) on 22 October 2015. Section 8 of this new form requires that the parent undertakings and final beneficial owners be clearly mentioned in case of notifications prepared for a group of companies. The form is available on the CSSF website under Supervision > Securities markets > Transparency > Forms.

Moreover, the CSSF would like to inform that the transposition of Directive 2013/50/EU entails an update of Circular CSSF 08/349, including the form for the notifications appended to the circular.

4.3.3. Other amendments

Among the other amendments introduced by Directive 2013/50/EU, please note that the publication of quarterly information by issuers is no longer required. It is also envisaged to waiver the obligation to make public new loan issues as well as the obligation to communicate to the competent authorities any amendment to an issuer's instrument of incorporation or statutes. In anticipation of the transposition of these amendments into Luxembourg law, the CSSF specified in Press release 15/49 of 27 November 2015 that it will not take measures against issuers for which Luxembourg is the home Member State, currently subject to the requirements governing the publication or communication of the above-mentioned information and which no longer comply with these requirements as from the dates mentioned in the press release.

The deadline for the publication of the half-yearly financial reports which cover the first six months of each financial year has been extended by Directive 2013/50/EU to three months as from the end of the relevant half-year. In anticipation of the transposition of this amendment into Luxembourg law and by analogy with the position adopted regarding the publication of quarterly information, the CSSF informs that it will not take measures against issuers of shares or debt securities for which Luxembourg is the home Member State, currently subject to the requirement to publish a half-yearly financial report within two months as from the end of the half-year (pursuant to Article 4 of the Transparency Law) and which publish this half-yearly financial report within three months for the whole period ending on or after 27 November 2015.

It should be emphasised that these clarifications are without prejudice to the requirement of making public any regulated information and that issuers are still required to make public, without delay, any inside information which directly concerns them.

Press release 15/49 of 27 November 2015 provides further information about the provisions of Directive 2013/50/EU and the position adopted by the CSSF in anticipation of its transposition into Luxembourg law.

The documentation on the Transparency legislation will also be updated following the transposition of Directive 2013/50/EU.

4.4. International dimension

The European and international dimension represented an important part of the work of the CSSF regarding transparency. Thus, the CSSF actively participated in different working groups within the Corporate Reporting Standing Committee (CRSC) and the Corporate Finance Standing Committee (CFSC). For further details on this subject, please refer to points 2.1.3. and 2.1.4. of Chapter II "The European dimension of the supervision of the financial sector".

[1] https://www.esma.europa.eu/regulation/corporate-disclosure/transparency-directive.

5. ENFORCEMENT OF FINANCIAL INFORMATION

Within the context of its mission of supervising securities markets, the CSSF is in charge of examining the financial information published by issuers of securities. Through this activity, generally known as enforcement, the CSSF ensures that the financial information complies with the relevant reporting framework, i.e. the applicable accounting standards.

5.1. General framework of consistent enforcement of accounting standards

5.1.1. Legal and regulatory framework

• Transparency Law

The CSSF accomplishes its enforcement mission pursuant to the Transparency Law which empowers it to examine the financial information published by issuers of securities falling within the scope of application of that law.

The powers and penalties available to the CSSF as regards enforcement are set out in Articles 22, 25 and 26 of the Transparency Law.

• ESMA Guidelines on enforcement of financial information

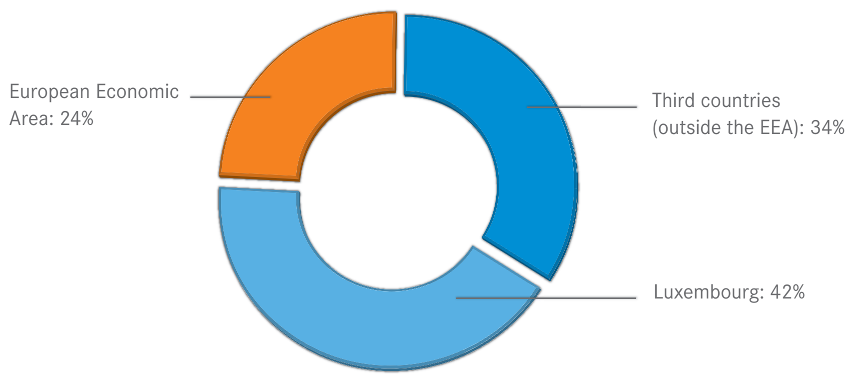
Regarding the enforcement of financial information, ESMA is in charge of the development of a convergent approach for enforcement diligences, priorities and objectives at European level. In this context, ESMA drew up and issued guidelines on enforcement of financial information which entered into force on 29 December 2014.

The purpose of these guidelines is to set consistent and efficient supervisory practices while ensuring a common approach of the enforcement of financial information under the Transparency Directive in order to reach a proper and rigorous enforcement regime which allows underpinning investors' confidence in financial markets and avoiding regulatory arbitrage. The guidelines are based on principles which describe in particular the selection methods to be used, the types of enforcement procedures and actions which may be used by the enforcement authorities and they explain the way in which these activities are coordinated within ESMA. The CSSF confirmed to ESMA that it complies with the guidelines.

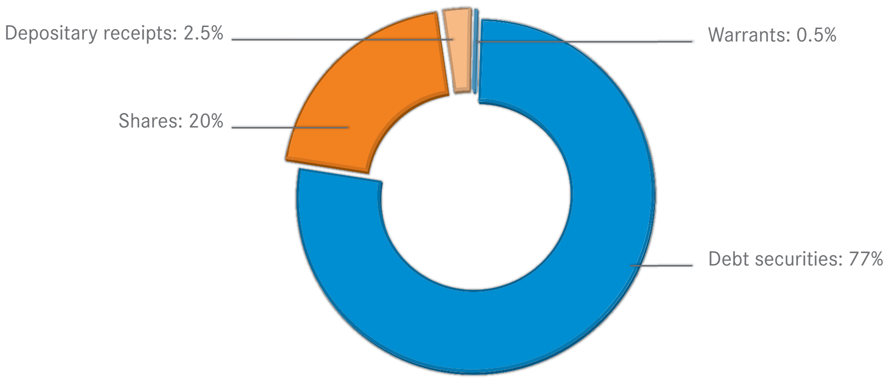
5.1.2. Population of issuers subject to enforcement

Under the Transparency Law, and by taking into account the exemptions provided for in Article 7 of this law, the population of issuers falling within the scope of enforcement as at 1 January 2015 amounted to 258 entities (2014: 289) with the following characteristics.

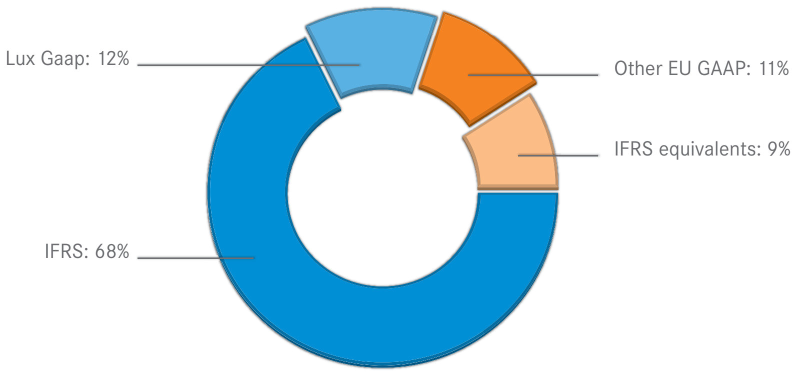
Breakdown of the 258 issuers according to country of registered office



Breakdown of the 258 issuers according to the type of securities admitted to trading



Breakdown of the 258 issuers according to the accounting framework used for the preparation of the main financial reporting (i.e. consolidated accounts or individual accounts, in the absence of consolidated accounts)



5.2. Enforcement process

The enforcement process described below was implemented by the CSSF. In 2015, this process was reviewed and adapted to the new ESMA guidelines.

5.2.1. Selection mode

The enforcement process begins with the selection of the issuers which will be subject to an examination in the context of enforcement. The selection model applied is based on a mixed model whereby a risk-based approach is combined with a sampling and rotation approach. The risk-based approach adopted by the CSSF considers the risk of misstatements and the possible impact of an irregularity on the financial markets.

5.2.2. Types of examination

In the context of its examination process, the CSSF identifies the most efficient way to enforce financial information. The examination programme, defined every year for the selected issuers, includes:

- unlimited scope examination: evaluation of the entire content of the financial information of an issuer in order to identify issues/areas that need further analysis and to assess whether the financial information is compliant with the relevant financial reporting framework;

- focussed scope examination: evaluation of pre-defined issues in the financial information of an issuer and the assessment of whether the financial information is compliant with the relevant financial reporting framework in respect of those issues. This type of examination covers, in particular, thematic examinations during which the CSSF reviews the practices followed by a sample of issuers concerning specific issues; and
- follow-up examinations during which the CSSF ensures that the decisions taken in relation to the different misstatements identified during the previous examinations were taken into account by the issuers concerned.

These examinations will include many direct and repeated contacts (meetings, exchange of mails, conference calls) with representatives of the issuer and/or its external auditor in order to analyse the most sensitive problems and issues and obtain information, documents and other objective evidence required to perform the examination. Some examinations may also lead to on-site inspections at the issuers concerned.

5.2.3. Types of decisions

Following the examination described above, the CSSF may conclude that a specific accounting treatment does not comply with the relevant financial reporting framework. The CSSF must then determine whether a misstatement consists in a material misstatement or an immaterial departure from the financial reporting framework and if any enforcement actions should be taken accordingly.

Whenever a material misstatement is detected, the CSSF takes in a timely manner at least one of the following measures according to certain considerations:

- require a reissuance of the financial statements;
- require a corrective note; or
- require a correction in future financial statements with restatement of the comparatives, where relevant.

The CSSF notifies these decisions appropriately to the issuer, namely in the form of injunctions, recommendations and follow-up measures of the corrections or improvements of financial information proposed by the issuer itself. The CSSF finalises its examination of the financial information by sending a letter to the issuer including the related notifications.

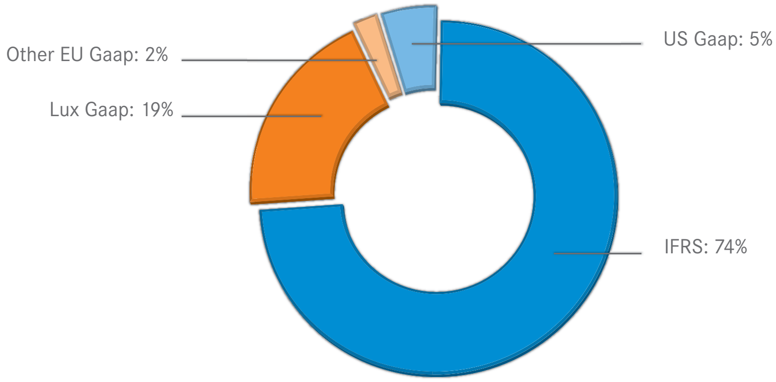
5.3. Activities and results in 2015

5.3.1. Summary of the enforcement activities in 2015

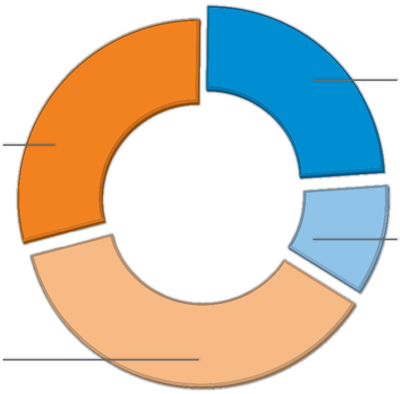
• Unlimited scope examinations

During the 2015 enforcement campaign, the unlimited scope examinations carried out by the CSSF covered more than 16% of the issuers falling within the scope of enforcement (compared to 15% in 2014 and 15% in 2013). These unlimited scope examinations applied to different categories of issuers and accounting standards, covering thus a representative sample of the population of issuers falling within the supervision of the CSSF.

Breakdown of unlimited scope examinations of financial information according to the accounting standards used by the issuers



Breakdown of unlimited scope examinations of financial information by issuer type (according to the type of securities admitted to trading and the registered office)



Following the unlimited scope examinations, the CSSF concluded that certain specific accounting treatments were non-compliant and had to take decisions vis-à-vis certain issuers, aiming to either correct the identified errors or amend and improve the subsequent published financial statements. These decisions took the form of injunctions, recommendations and follow-ups of corrections or improvements proposed by the issuer itself. It should be noted that each issuer having been reviewed may have received several injunctions or recommendations or may have undertaken to amend or correct by itself some identified infringements.

During the 2015 enforcement campaign, the unlimited scope examinations led the CSSF to notify on average 4.2 misstatements/irregularities per issuer (compared to 5.6 in 2014). The downward development of the average number of notifications issued by the issuer results, among others, from the CSSF's will to focus on the most significant accounting issues and misstatements.

As shown in the table below, the notifications mainly applied to topics which were identified as priorities in the context of the examinations to be carried out by the CSSF for the 2015 enforcement campaign, i.e. issues relating to impairment of intangible assets (particularly, goodwill) and to financial instruments and the determination of the fair value and, in general, to the quality of the disclosures and the presentation of financial statements.

Breakdown by topic of notifications issued to issuers by the CSSF following the unlimited scope examinations carried out in 2014 and 2015

Topic	2014	2015
Disclosure of financial statements (IAS 1, IAS 34, IAS 7)	25%	34%
Other accounting standards (Lux Gaap, UK Gaap, US Gaap, FR Gaap) and accounting problems (IFRS 5, IFRS 2, etc.)	24%	19%
Financial instruments (IAS 32, IAS 39, IFRS 7)	19%	14%
Fair value measurement (IFRS 13, IAS 40, IAS 41)	16%	15%
Impairment of assets (IAS 36)	7%	5%
Income taxes (IAS 12)	4%	3%
Employee benefits (IAS 19)	4%	2%
Operating segments (IFRS 8)	1%	3%
Consolidation standards (IFRS 3, IFRS 10, IFRS 12)	-	5%

• Focussed scope examination

Several focussed scope examinations of different samples of issuers were carried out during the 2015 campaign. During these examinations, the CSSF particularly ensured compliance with the main requirements set forth by:

- IAS 12 by paying particular attention to deferred tax assets and uncertain tax positions;
- IFRS 10 and notably the requirements related to the assessment of the investment entity status and its consequences on the consolidation process;
- IAS 34 ensuring that the main presentation and disclosure requirements have been properly addressed in the notes to the half-yearly financial statements.

• Follow-up examination

Issuers that were subject to an examination during the 2014 campaign, and whom the CSSF requested to change or improve the 2014 financial statements concerned, were subject to a follow-up examination in order to ensure compliance with the decisions taken by the CSSF.

Except for one case which had to undergo an additional examination, the decisions taken by the CSSF were respected by the issuers.

• Examination within the context of the issue of prospectuses

As in the previous years, in 2015, enforcement examinations were carried out within the context of the prospectus approval process, and in particular in the event of an application for the admission to trading on a regulated market. Besides the aspects directly related to accounting standards, the topics covered concerned the preparation of pro forma financial statements as well as certain issues regarding the valuation of assets and the reorganisation of a group under common control.

5.3.2. Main observations and recommendations issued in 2015 in the context of the unlimited scope examinations

The decisions taken following the different unlimited scope examinations carried out in 2015 covered, among others, the topics set as enforcement priorities by the CSSF for its 2015 enforcement campaign and referred to in Press release 15/01. Thus, more than 45% of the decisions taken directly concerned these topics.

The findings and recommendations described below provide an indication of the main observations made by the CSSF in 2015 and must be taken into account by the issuers which publish their financial information according to the IFRS and by their auditors. These being, however, specific questions, they will not necessarily apply to all issuers and they must be considered in view of their relevance and materiality. These observations must not be considered as interpretations or definitions of the international accounting standards for which only the IASB and its interpretation committee, the IFRS IC, are competent.

• General recommendation related to the presentation of financial statements and general and specific disclosures in accompanying notes

Given the significant number of decisions related to the quality of the disclosures and the presentation of financial statements, the CSSF draws again the attention of the issuers to the fact that they must ensure to make their financial information more relevant, consistent and understandable.

The recurring issue of the volume and complexity of the information included in the financial statements under the IFRS continues to be subject to many discussions and analyses by the IASB, the European authorities or some issuers. In that respect, ESMA published a public statement on 27 October 2015 which points out the main principles aiming to improve the quality of the disclosures in financial statements. As a reminder, any improvement provided should comprise qualitative and relevant information and quantitative and boilerplate information should be avoided.

Besides these principles, the CSSF reiterates that, considering all the requirements of the IFRS standards, the materiality and specificities of the information provided in the financial statements should be taken into account in order to favour the relevance of the information disclosed against an essentially exhaustive approach aiming at including all requirements and descriptions presented in the standards. Indeed, this approach does not, or only marginally, allow the identification of material issues and topics which are specific to the issuer.

Thus, the CSSF requests issuers to ensure that the information presented in their financial statements is relevant, adapted to their market and activities and that it allows the users to understand the financial situation, the performance and the significant issues of the entity.

• IFRS consolidation standards

The CSSF paid particular attention to the adoption of the IFRS consolidation standards in the issuers' financial statements, whose mandatory application has been effective since 1 January 2014, namely IFRS 10 "Consolidated financial statements", IFRS 11 "Joint arrangements" and IFRS 12 "Disclosure of interests in other entities".

IFRS 10 notably introduced a single model for assessing whether an investor controls an investee. Henceforth, an investor controls an investee when it is exposed, or has rights, to variable returns from its involvement with the investee and has the ability to affect those returns through its power over the investee.

In Press release 16/02 published on 11 January 2016, the CSSF insisted on this new single definition and on the importance to analyse all other facts and circumstances, as laid down in IFRS 10 in order to assess the existence of the control.

The CSSF points out in this context that, where an issuer controls another entity even though it holds less than half of the voting rights of the other entity, and if this information is deemed material, the issuer must disclose information in its financial statements as to the significant judgements and assumptions made in determining that it has control. This case is specifically provided for in paragraph 9(b) of IFRS 12.

Given the specific requirements of IFRS 12 in relation to the disclosure requirements, the CSSF recommends issuers to ensure that the disclosures in the financial statements provide a good understanding of the nature of the interests held in other entities and the impact of these interests on the issuer's financial situation, notably on the results and current and future cash flows, in all their significant aspects.

During the 2015 enforcement campaign, the CSSF also monitored the correct application of the requirements set forth by IFRS 11. In this context, the CSSF examined the classification of a certain number of structures such as joint venture or joint operation. The CSSF reminds issuers that the difference between these two types of joint arrangements is based not only on their legal and contractual form, but also, if applicable, on the analysis of all other facts and circumstances as specified in paragraph 17 of IFRS 11. According to the complexity of the analysis and the materiality of the elements at stake, it may be useful to provide relevant information in the notes to the financial statements.

• Impairment of assets and disclosure of detailed quantitative and qualitative information about the impairment tests

This year again, the CSSF thoroughly examined the impairment tests carried out on intangible and tangible assets by issuers. In some cases, the CSSF noted that the impairment tests on goodwill, identified during business combinations which had occurred during the financial year, were not carried out before the end of this same financial year. In this context, the CSSF reiterates the requirements of paragraph 96 of IAS 36 "Impairment of assets" which says that, if some or all of the goodwill allocated to a cash-generating unit was acquired in a business combination during the current financial year, that unit must be tested for impairment before the end of the current financial year.

Moreover, the CSSF noted that, in some cases, significant information relating to estimates used to measure the recoverable amounts of cash-generating units containing goodwill or intangible assets with indefinite useful lives were not always disclosed. Indeed, for each cash-generating unit for which the carrying amount of goodwill or intangible assets with indefinite useful lives allocated to that unit is significant, in comparison with the entity's total carrying amount of goodwill or intangible assets with indefinite useful lives, IAS 36 requires quantitative and qualitative information to be disclosed in the notes to the financial statements. Paragraph 134 of IAS 36 requires, among others, to provide information as to the basis on which the unit's recoverable amount has been determined (i.e. value in use or fair value less costs of disposal) and, if the unit's recoverable amount is based on the value in use, a description of each of the key assumptions on which management has based the cash flow projections for the period covered by the most recent budgets/forecasts as well as the key assumptions to which the unit's recoverable amount is the most sensitive. The period over which management has projected cash flows and the key assumptions must be justified (past experience, external sources or other reasons). Furthermore, IAS 36 requires the disclosure of information and justifications on the growth rate used to extrapolate the cash flow projections beyond the period covered by the most recent budgets/forecasts and on the discount rate applied.

The CSSF also draws the attention of the issuers to the sensitivity analysis required by paragraph 134(f) of IAS 36. This analysis must be disclosed in the financial statements if a reasonably possible change in a key assumption on which management has based its determination of the unit's recoverable amount would cause the unit's carrying amount to exceed its recoverable amount.

The CSSF also reminds that the key assumptions retained should be disclosed for each cash-generating unit rather than aggregated information or ranges of information. The CSSF insists on the importance to choose specific assumptions for each cash-generating unit where significant discrepancies between the cash-generating units can be observed, notably with respect to the economic environment in which they operate.

- **Fair value measurement: disclosure of information on the methods for fair value measurement and assumptions retained**

The CSSF reviewed the quality and relevance of fair value measurement and the related information disclosed in the issuers' financial statements. The CSSF considers that such information on fair value measurement is essential for users of financial statements in order to enable them to assess the accuracy of the valuations presented in the financial statements.

Even though most of the issuers disclosed detailed information on their valuations and the underlying assumptions, as required by IFRS 13 "Fair value measurement", the CSSF noted several inconsistencies in the categorisation of fair value measurements in the fair value hierarchy. According to paragraph 74 of IFRS 13, the availability of the relevant inputs and their relative subjectivity might affect the selection of appropriate valuation techniques. However, the fair value hierarchy prioritises the inputs to valuation techniques, not the valuation techniques used to measure fair value. In this respect, an adjustment of certain valuation parameters by inputs which are unobservable for the determination of the final valuation of financial instruments, and if unobservable inputs become significant, may lead to a Level 3 categorisation in the fair value hierarchy. Conversely, if the fair value measurements are mainly based on unadjusted quoted prices, categorisation within Level 1 of the fair value hierarchy must be retained.

Moreover, as required by paragraph 42 of IFRS 13, the CSSF ensured while performing its examinations that the entities concerned also reflected the effect of non-performance risk in the measurement of a liability's fair value. Non-performance risk includes, but may not be limited to, an entity's own credit risk (defined in IFRS 7 "Financial instruments: Disclosures"). Considering the fair value measurement of financial derivatives, and in addition to taking into account non-performance risk for derivative financial liabilities (Debit Value Adjustment, DVA) and as required by paragraph 56 of IFRS 13, the CSSF ensured that entities included in the fair value measurement of derivative financial assets (Credit Value Adjustment, CVA) the effect of the entity's net exposure to the credit risk to any counterparties. In this context, the CSSF recommends issuers to provide qualitative and quantitative information in relation to the fair value adjustments referred to above, if such adjustments are deemed material, in order to ensure the relevance of the information disclosed in the financial statements.

5.3.3. Main observations and recommendations issued in 2015 in the context of the focussed scope examinations

- **Recognition of deferred tax assets on tax loss carry-forwards and uncertain tax positions**

The CSSF particularly ensured compliance with paragraphs 35 and 36 of IAS 12 "Income taxes" in relation to the recognition of deferred tax assets for the carryforward of unused tax losses. This issue remains a sensitive topic due to the significant judgement included in the profit forecasting and due to the fact that the economic environment of the last years could have incited entities to scale back their performance and to generate, in some cases, tax losses carried forward and temporary deductible differences.

The CSSF often noted that issuers who recognised significant deferred tax assets for unused tax losses did not disclose or disclosed insufficiently in their financial statements the nature of the evidence supporting their recognition. Moreover, whenever such information has been disclosed, it is insufficiently addressed or includes little or no precision concerning the assumptions made to determine the taxable future profit forecasts. Also, little or no indication has been disclosed concerning the period used for the assessment of the recovery of the deferred tax assets, the judgements made and the amount of tax losses carried forward for which deferred tax assets were recognised compared to the total tax losses carried forward which are available for each material tax group or entity.

The CSSF therefore requests issuers concerned by the recognition of significant deferred tax assets on carryforward of unused tax losses to ensure that the above-mentioned information has been properly disclosed in the notes to the financial statements.

The CSSF points out that paragraph 35 of IAS 12 specifies that the existence of unused tax losses is strong evidence that future taxable profit may not be available. Moreover, it specifies that issuers must, as required by paragraph 82 of said standard, disclose the amount of deferred tax asset and the nature of the evidence supporting its recognition when the entity has suffered a loss in either the current or the preceding period in the tax jurisdiction to which the deferred tax asset relates. The CSSF expects, in these cases, that the issuers concerned disclose in the notes to their financial statements convincing and supporting evidence as to the recognition of the deferred tax assets, especially whenever the length of the period used for the assessment of the recovery of the deferred tax assets is significant.

The CSSF also examined the accounting treatment retained for the recognition of uncertain tax positions, particularly, the approach retained by the issuers to recognise and measure assets or liabilities regarding uncertain tax positions. Even though the IFRS do not provide for specific information on the accounting treatment for uncertain tax positions, nor on the relevant information to be disclosed in the financial statements, the CSSF recommends issuers, in case of uncertainty on significant tax positions, to indicate in the notes to their financial statements the accounting policy and the measurements criteria related to material uncertain tax positions.

- **Assessment of the investment entity status and its consequences on the consolidation process**

As indicated in its 2014 Annual Report, the CSSF decided during the 2015 campaign to examine the application or non-application, by the issuers which may be concerned given their main activities and their structure, of the exemption from consolidation applicable to investment entities laid down in IFRS 10.

Thus, for a sample of issuers concerned by these focussed scope examinations, the CSSF examined and assessed the criteria and characteristics defined in paragraphs 27 and 28 of IFRS 10 and which allow for the determination of the investment entity status.

The CSSF would like to emphasise that the assessment of the investment entity status requires that issuers, likely to be concerned by this issue, carry out a thorough analysis taking into account all the facts and circumstances, including their own and their subsidiaries' conception, structure and main activities. Paragraphs B85A to B85W of IFRS 10 lay down, in addition to the paragraphs mentioned above, elements to allow issuers to determine if they meet the definition of investment entity and, thus, the exception to consolidation.

Even though the CSSF noted that the issuers concerned by these examinations satisfyingly assessed their investment entity status, it requests issuers likely to be concerned by this issue to ensure that the information required by paragraph 9A of IFRS 12 is disclosed in the notes to their financial statements, namely relevant and appropriate information about significant judgements and assumptions they have made in determining that they are investment entities. Therefore, the CSSF recommends the issuers that consider that they do not meet the criteria and characteristics of an investment entity to also provide the significant assumptions and judgements in the notes to their financial statements in order to justify their position. This information may allow users of the financial statements to understand the basis on which the status has been determined and how it may evolve.

• Half-yearly financial statements according to IAS 34 "Interim Financial Reporting"

During the focussed scope examinations concerning the half-yearly financial statements drawn up in accordance with IAS 34, the CSSF noted that, as in the past, information on the fair value of financial instruments was still incomplete or even missing for a significant number of examined half-yearly financial statements. Yet, paragraph 16A(j) of IAS 34 requires the disclosure in interim financial statements of specific information in relation to the fair value of financial instruments as provided for by IFRS 7 and IFRS 13.

The CSSF also noted recurring misstatements concerning the presentation of comparative information. Therefore, the CSSF reminds that the comparative periods to be presented in the interim financial statements are clearly defined by paragraph 20 of IAS 34. Issuers concerned are requested to comply with these requirements.

5.4. European cooperation

5.4.1. Cooperation framework

ESMA's work in the field of accounting, auditing, periodic information and storage of the regulated information is led by the Corporate Reporting Standing Committee of ESMA (CRSC) (cf. point 2.1.3. of Chapter II "The European dimension of the supervision of the financial sector"). Enforcement-specific topics are mainly discussed within the European Enforcers Coordination Sessions (EECS) forum.

The EECS forum is composed of representatives of 41 authorities from EEA Member States, including the CSSF, competent in enforcement. The purpose of the forum is to ensure, through a convergent approach of the supervision implemented by the national competent authorities, the consistent enforcement of the IFRS by the companies listed on a European regulated market.

5.4.2. Main work carried out by the EECS in 2015

Even if the group does not take decisions directly, the EECS forum allows the national competent authorities to discuss and share their experiences and knowledge relating to the application and enforcement of the IFRS before or after a decision is taken in their respective jurisdictions. Thus, in 2015, 132 practical cases, dealt with by the competent authorities, were discussed during eight meetings of the EECS forum. Almost 50% of these cases were discussed prior to the decision-making by the authority concerned. Moreover, ESMA, together with European national enforcers, identifies each year within the EECS the common enforcement priorities. The common priorities for 2016 encompass the following topics:

- the impact of the financial markets conditions on the financial statements (increased market and exchange risks, etc.);
- the statement of cash flows and related disclosures; and
- fair value measurement and related information to be disclosed in the financial statements.

In addition to these issues, the EECS is also in charge of:

- organising meetings with the IFRS IC representatives to discuss complex practical cases identified by members of the forum during their field work; three meetings were held in 2015;
- sharing and comparing practical experiences in relation to supervision such as the selection, risk assessment, examination methods, contact with issuers and auditors;
- advising on issues relating to the examination and participating in the drawing-up of the public statements, opinions or guidelines of ESMA. In 2015, ESMA published the guidelines on alternative performance measures which will enter into force on 3 July 2016 as well as an analysis on the need to improve the quality of the disclosures to be made in financial statements and an opinion on the recognition of cash contributions to the deposit guarantee schemes in IFRS financial statements;

- supporting ESMA in conducting studies or analyses in order to determine the way in which the IFRS are applied in practice; and
- advising ESMA regarding the publication of selected decisions: two exerts including 17 decisions discussed within the EECS forum were published in 2015.

5.5. Prospects for the 2016 campaign

The enforcement campaign for the financial year 2016 will follow an approach similar to the one of the preceding financial year. The selected issuers will be subject to unlimited and focussed scope examinations. In addition, within the context of the 2015 closing of accounts, the CSSF, through Press release 16/02 published on 11 January 2016, drew the attention of issuers, preparing their financial statements in accordance with the IFRS, to a certain number of topics and issues which will be specifically monitored during its 2016 enforcement examination campaign.

Moreover, some priority issues were identified by ESMA for the assessments carried out by the national competent authorities and were described in detail in ESMA's press release of 27 October 2015.

In the framework of the focussed scope examinations, the CSSF decided to examine again the compliance with the requirements of IAS 34 for the drawing-up of published interim financial statements. Moreover, in the context of the European priorities for 2016, the CSSF will also carry out focussed scope examinations regarding the compliance with IAS 7 "Statement of cash flows" as the statement of cash flows is considered as a crucial element for the comprehension and analysis of the issuers' investment policy.

Finally, in the context of the entry into force in July 2016 of the guidelines on alternative performance measures, the CSSF, as the national competent authority for the Transparency and Prospectus Directives and for market abuse, will include these guidelines in its supervisory practices in order to ensure that their requirements are properly addressed by the issuers and the persons responsible for drawing up prospectuses. Specific examinations thereto will be performed. These guidelines define the information to be disclosed (definition, reconciliation, etc.) and apply to alternative performance measures disclosed by the issuers or the persons responsible for the prospectus when publishing regulated information or prospectuses (including supplements). Regulated information includes, in particular, management reports published for the market in accordance with the Transparency Directive and publications issued pursuant to the requirements of the Market Abuse Directive.

6. SUPERVISION OF MARKETS AND MARKET OPERATORS

6.1. Reporting of transactions in financial instruments

6.1.1. Obligation to report transactions in financial instruments

The reporting regime in respect of transactions in financial instruments is mainly set down in Article 28 of the law of 13 July 2007 on markets in financial instruments (MiFID Law) which transposes Article 25 of Directive 2004/39/EC of 21 April 2004 on markets in financial instruments (MiFID). This article lays down the obligation for credit institutions and investment firms to report to the CSSF the transactions in financial instruments admitted to trading on a regulated market. The details set out in Article 28 were completed by the implementing measures of Regulation (EC) No 1287/2006 of 10 August 2006 implementing MiFID and clarified by the instructions set out in Circular CSSF 07/302.

Regulation (EU) No 600/2014 of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 introduces new requirements in relation to reporting of transactions in financial instruments to competent authorities. These obligations were discussed in detail in the CSSF Annual Report 2011. Please note that, on 10 February 2016, the European Commission proposed to defer the date of application of the above-mentioned regulation by 12 months, i.e. until 3 January 2018.

6.1.2. Credit institutions and investment firms concerned by the obligation to report transactions in financial instruments

As at 31 December 2015, 244 entities (credit institutions and investment firms incorporated under Luxembourg law and Luxembourg branches of credit institutions and investment firms incorporated under foreign law) fell within the scope of Article 28 of the MiFID Law and were potentially concerned by the transaction reporting regime (245 entities in 2014), including 143 credit institutions (144 in 2014) and 101 investment firms (idem in 2014). Among the investment firms, only those authorised to carry out transactions in financial instruments, i.e. commission agents, private portfolio managers, professionals acting for their own account, market makers, underwriters of financial instruments and distributors of units/shares of UCIs, are subject to the reporting obligation.

As at 31 December 2015, 90 entities (93 in 2014), of which 80 credit institutions (82 in 2014) and 10 investment firms (11 in 2014), were required to send their transaction reports to the CSSF as their interventions are considered as "executions of transactions" within the meaning of the MiFID Law, as specified by Circular CSSF 07/302. The difference compared to the number of entities that are potentially concerned by the reporting regime results from the fact that, in practice, a certain number of entities, mainly investment firms, are not subject to the obligation to report transactions in financial instruments because they do not conclude immediate market facing transactions and do not execute transactions on own account.

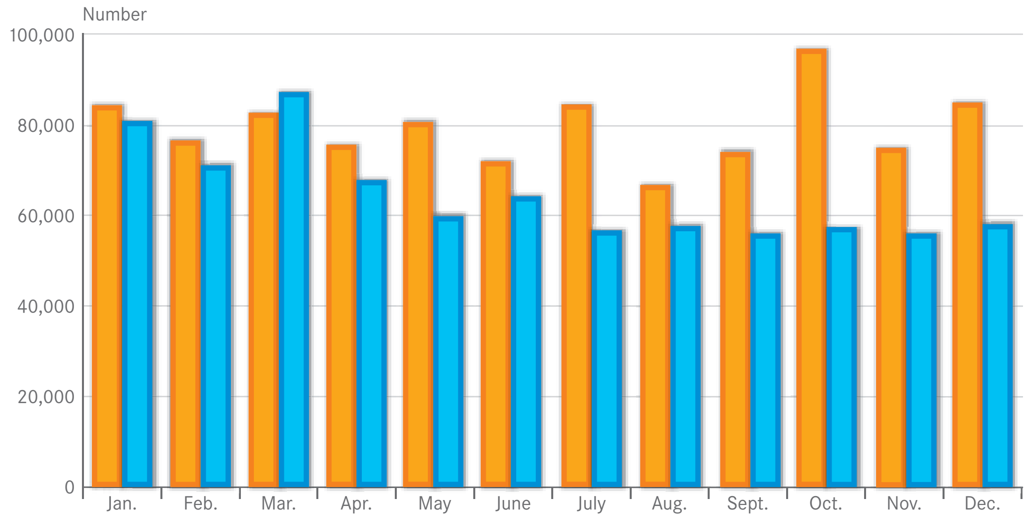
In 2015, the CSSF carried out one consistency test campaign aiming to check and improve the quality of the data on transactions in financial instruments. The CSSF also carried out one-off controls mainly aiming to identify the following shortcomings: irregular dispatch of transaction report files and missing reports on transactions executed by a member of the market Bourse de Luxembourg. In the framework of the controls carried out in relation to MiFID reporting in 2015, the CSSF intervened at seven entities for which shortcomings were detected. In this context, deficiency letters and/or information requests were sent to six entities.

In 2016, the CSSF will continue to carry out regularly one-off controls aiming to improve the quality of the data on transactions in financial instruments.

6.1.3. Development in the number of transaction reports in financial instruments

In 2015, the number of transaction reports sent by the entities and accepted by the CSSF reached 774,834 (-19.07% compared to 2014). This significant drop results notably from the fact that, in 2015 and following discussions with the CSSF, some entities redefined the parameters of their reporting system in order to better limit their reports to the sole transactions falling within the scope of the reporting obligation in Luxembourg.

Monthly volume of MiFID reports accepted in 2014 and in 2015



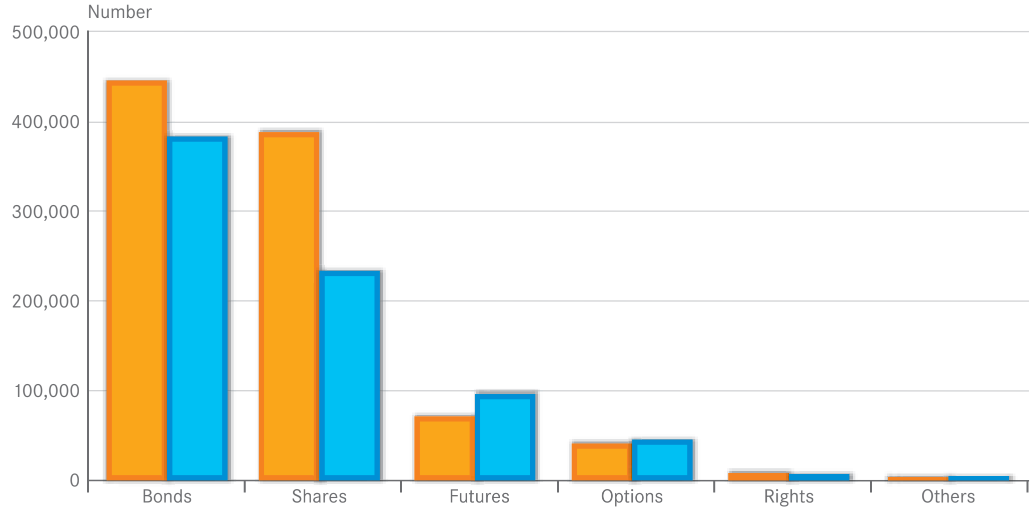
	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
2014	84,830	76,703	83,087	75,817	80,961	72,223	84,726	66,916	74,237	97,328	75,217	85,326
2015	81,201	71,377	87,636	68,145	59,961	64,362	56,747	57,622	56,176	57,401	56,139	58,067

Breakdown of transactions by month and by type of instrument in 2015

	Bonds	Shares	Futures	Options	Rights	Others	Monthly total
CFI Code	(Dxxxxx)	(Exxxxx)	(Fxxxxx)	(Oxxxxx)	(Rxxxxx)	(Mxxxxx)	
January	38,650	29,055	8,277	4,050	734	435	81,201
February	38,947	22,675	5,117	4,091	286	261	71,377
March	44,734	31,046	7,369	3,835	442	210	87,636
April	34,321	23,535	5,754	3,695	604	236	68,145
May	31,811	14,719	9,988	2,515	725	203	59,961
June	32,131	14,685	12,854	4,027	448	217	64,362
July	29,343	15,465	7,503	3,697	347	392	56,747
August	23,284	19,652	9,499	4,030	297	860	57,622
September	26,950	14,844	9,950	3,980	268	184	56,176
October	28,221	16,361	7,357	3,369	1,057	1,036	57,401
November	28,952	17,143	5,561	3,506	689	288	56,139
December	25,634	19,526	7,003	4,693	934	277	58,067
Annual total	**382,978**	**238,706**	**96,232**	**45,488**	**6,831**	**4,599**	**774,834**

In relative terms, the majority of the 2015 reports concerned transactions in bonds (49.43%), followed by transactions in shares (30.81%). Transactions in other types of instruments break down as follows: futures (12.42%), options (5.87%), rights (0.88%) and other instruments (0.59%).

Annual comparison of transactions by type of instruments



	Bonds	Shares	Futures	Options	Rights	Others
2014	445,346	387,836	71,415	41,172	8,138	3,464
2015	382,978	238,706	96,232	45,488	6,831	4,599

This data as well as the evaluation of the information received via TREM (Transaction Reporting Exchange Mechanism), set up between competent authorities for their respective supervisory missions, reveal the trends on European markets and, particularly, on the Luxembourg market. The main purpose of the supervision of the markets is to prevent and detect infringements of financial and stock market laws and regulations. In this context, monthly internal reports as well as specific internal reports are drawn up on the basis of the received reports. These ex post analyses of transactions in financial instruments can be used as a starting point for the CSSF's inquiries.

6.2. Supervision of stock exchanges

The establishment of a regulated market in Luxembourg is subject to a written authorisation of the Minister responsible for the CSSF. Chapter 1 of Title 1 of the MiFID Law sets out the authorisation conditions and requirements applicable to regulated markets. Where the operator of such a regulated market is established in Luxembourg, it must also obtain an authorisation as specialised PFS in accordance with the law of 5 April 1993 on the financial sector. The actions relating to the organisation and operation of the regulated market are supervised by the CSSF.

Pursuant to the provisions of the MiFID Law, the operation of a multilateral trading facility (MTF) is part of the investment services and activities defined in that law. The MTFs may be operated either by a market operator, or by a credit institution or investment firm.

There are currently two markets operated in Luxembourg by the same operator, namely Société de la Bourse de Luxembourg S.A. (SBL): a first market named Bourse de Luxembourg (Luxembourg Stock Exchange) which is a regulated market within the meaning of the European directives and a second market called Euro-MTF, the operating rules of which are defined in the Rules and Regulations of the SBL.

The SBL is also the only company holding an authorisation as operator of a regulated market authorised in Luxembourg as defined in Article 27 of the law of 5 April 1993 on the financial sector. In this capacity, it is registered on the official list of PFS under specialised PFS.

The assessment of the financial situation of the SBL is performed via the monthly reporting sent by the SBL, similarly to the procedure implemented for specialised PFS. The CSSF also monitors the market activities and the problems encountered in relation to these activities on the basis of the analytical reports transmitted by the SBL and the electronic access to the information on market transactions.

As at 31 December 2015, both markets operated by the SBL totalled 37,930 listings, against 39,438 in 2014, divided into 25,674 bonds, 5,516 warrants and others, 6,507 UCIs and 233 shares and certificates. In 2015, 8,764 new issues were admitted to official listing, against 8,654 in 2014. Instruments admitted in 2015 can be broken down as follows: 6,544 bonds, 1,544 warrants and others, 670 UCIs and six shares and certificates.

As at 31 December 2015, the SBL had 57 members (among which nine market makers) authorised to trade on the SBL's markets.

The LuxX index closed the financial year 2015 with 1,390.716 points and thus shows a 8.5% decrease over a year.

In accordance with the management rules of the LuxX index, the SBL revised the LuxX index on 4 January 2016.

6.3. Short selling

The short selling regime covering also certain aspects of credit default swaps is mainly defined in Regulation (EU) No 236/2012 of 14 March 2012 on short selling and certain aspects of credit default swaps. In accordance with the law of 12 July 2013 on short selling of financial instruments, implementing Regulation (EU) No 236/2012, the CSSF is the competent authority in Luxembourg for the application of this regulation. The aforementioned law also provides for a regime of sanctions and administrative measures applicable in case of non-compliance with the provisions of Regulation (EU) No 236/2012 or measures taken pursuant to the latter.

The CSSF publishes on its website under "Supervision", section "Securities markets", sub-section "Short selling", the relevant documentation and information relating to short selling and certain aspects of credit default swaps in Luxembourg. Under this section, the CSSF also publishes decisions to impose or renew measures that it may take pursuant to the provisions of Regulation (EU) No 236/2012, a list of issuers of shares or issuers of sovereign debt for which the CSSF is the relevant competent authority in accordance with that regulation and a link to the CSSF Short Selling Platform for the notifications of net short positions or uncovered positions or the disclosure of net short positions in accordance with the aforementioned regulation.

As at 31 December 2015, 104 position holders were validly registered on the CSSF Short Selling Platform to notify or disclose net short positions or uncovered positions. In 2015, the CSSF received six notifications of net short positions in accordance with Articles 5 to 9 of Regulation (EU) No 236/2012. No disclosure of net short positions in accordance with Article 6 of Regulation (EU) No 236/2012 was made on the CSSF Short Selling Platform.

As at 31 December 2015, 10 authorised primary dealers which validly notified the CSSF that they intend to use the exemption under Article 17(3) of Regulation (EU) No 236/2012 in relation to the issued sovereign debt of the European Financial Stability Facility and/or of the European Stability Mechanism fulfilled the conditions for this exemption.

7. INVESTIGATIONS AND COOPERATION

The mission of the CSSF is to combat insider dealing and market manipulation in order to ensure the integrity of financial markets, to enhance investor confidence in those markets and thereby to ensure a level playing field for all market participants.

In the context of its supervision of securities markets, the CSSF either initiates inquiries itself or conducts them following a request for assistance from a foreign administrative authority within the framework of international cooperation.

Based on Article 23(2) of the Code of Criminal Procedure, some facts which may constitute a breach of the Luxembourg criminal provisions and which were noted during the aforementioned investigations are also brought to the attention of the State Prosecutor.

7.1. Investigations initiated by the CSSF

In 2015, the CSSF opened three investigations into insider dealing and/or market manipulation. These investigations are still on-going as are the five investigations into insider dealing and/or market manipulation opened in 2014 and 2013 as well as an investigation opened prior to 2013 and which is being finalised.

7.2. Investigations conducted by the CSSF upon request of a foreign authority

In 2015, the CSSF received 70 cooperation requests from foreign authorities (65 in 2014) in relation to the following subjects[2].

Cooperation requests by subject

Subject		2014	2015
Market abuse	Insider dealing	43	55
	Manipulation	12	8
MiFID (markets in financial instruments)		1	4
Transparency	Major holdings	1	3
	Periodic information	-	1
Takeover bids		1	2
Others		7	5

Twelve of these requests came from administrative authorities of non-EEA States.

The CSSF processed all the requests with the necessary diligence befitting cooperation between authorities.

It should be noted that one European competent authority requested, via a cooperation request in the framework of a market abuse investigation, the organisation of an on-site inspection with a private person in Luxembourg not subject to the prudential supervision of the CSSF. The on-site inspection, previously authorised by an order

[2] Please note that a request may concern one or several of these subjects.

of the investigating judge, was carried out in 2015 with the person concerned in accordance with Article 29a of the law of 9 May 2006 on market abuse. In this context, proceedings for annulment were brought against the order of the investigating judge and against the duties fulfilled following this order. The *Chambre du Conseil du Tribunal d'arrondissement* (Judges' Council Chamber of the District Court) accepted jurisdiction to hear the request for a declaration of invalidity given the reference of Article 29a(5) of the law of 9 May 2006 to the provisions of the Code of Criminal Procedure and the absence of a specific action established by the law of 9 May 2006 and declared, at the same time, the invalidity grounds invoked by the applicant unfounded. The *Chambre du Conseil de la Cour d'Appel* (Judges' Council Chamber of the Court of Appeal) confirmed the position of the *Chambre du Conseil de Première Instance* (Judges' Council Chamber of the First Instance Court) that it is competent but it declared the request for annulment inadmissible due to late application. After all remedies available to the person concerned with the on-site inspection have been exhausted, the investigation measure carried out by the CSSF was declared compatible with the applicable law.

7.3. Suspicious transaction notifications

Based on Article 12 of the law on market abuse, the CSSF received 20 suspicious transaction reports in 2015 (18 in 2014) from financial institutions. For underlying financial instruments admitted to trading on one or several foreign markets, i.e. a regulated market within the meaning of MiFID or another foreign market for which the provisions and prohibitions related to market abuse are similar to the requirements set out in the law on market abuse, the CSSF transmitted the notified information to the competent authorities of the market(s) concerned, thereby observing the cooperation obligation referred to in the law on market abuse and the relevant multilateral cooperation agreements. This information can lead these authorities to open investigations.

In 2015, the CSSF also received six notifications of suspicious transactions transmitted by foreign authorities (eight in 2014) and analysed them with the necessary diligence.

Agents hired in 2015 and 2016: Legal Department and Departments "Supervision of securities markets", "Public oversight of the audit profession", "Supervision of investment firms" and "Single Supervisory Mechanism (SSM)"

Left to right: Aude MIKOLAJEK, Marie-Astrid DUPUY, Céline CHAPELOT, Daniëlle ANEV JANSE, Christophe CIALINI, Carole RENIER, Antoine DE CHANTÉRAC, Katharina KAHSTEIN, Frank LAMBORELLE, Olivier LEONARD

Absent: Pascale ZOLLER

CHAPTER XII

SUPERVISION OF INFORMATION SYSTEMS

This chapter deals with the supervision of information systems of financial professionals, including mainly credit institutions, investment firms, specialised PFS, payment institutions and electronic money institutions. As regards the specific supervision of support PFS, please refer to point 3. of Chapter VI "Supervision of PFS".

1. ACTIVITIES IN 2015

In 2015, the staff of the division "Supervision of information systems" (SU.S.I.) increased in order to deal with the following challenges:

- the execution of new tasks (on-site inspections);
- the increasing participation in national and international working groups related, in particular, to recent and future regulations on IT;
- the ever-growing number of requests submitted for advice; and
- the necessity to analyse the functioning, inherent risks and conditions that allow the use of new technologies or emerging models of service provisions to the financial sector.

1.1. Off-site and on-site supervision

Supervision includes verifying that supervised entities comply with the legal and regulatory framework, focussing, in particular, on the technologies implemented as part of the information systems with a view of maintaining or improving the services offered. This also takes into account the specific nature of the outsourcing of services to support PFS or third parties, within or outside the group.

As regards the off-site supervision, the SU.S.I. division participated in 112 meetings and processed 236 requests (+16% compared to 2014) in 2015, namely:

- 37 applications for authorisation (IT part) for different types of entities (credit institutions, electronic money institutions, payment institutions, PFS);
- 199 requests for advice or for authorisation concerning IT projects submitted by supervised entities (IT outsourcing, websites, major system changes, etc.) and requests to support other CSSF's supervisory departments regarding specific IT issues (such as critical items of a management letter of a *réviseur d'entreprises agréé* (approved statutory auditor)).

Since the second half of 2015, the SU.S.I. division also takes part in the on-site supervision by carrying out on-site inspections in relation to IT. These on-site inspections are carried out on the initiative of the CSSF or in the framework of the ECB's Single Supervisory Mechanism (SSM). The team of the SU.S.I. division in charge of these inspections closely cooperates with the CSSF's department "On-site inspection". The IT aspect of these inspections remains part of the SU.S.I. division in order to ensure a harmonised understanding and assessment of the IT risks and a consistent position of the CSSF teams on these topics.

In 2015, the SU.S.I. division carried out two on-site inspections[1], one of which was carried out in the framework of the SSM and the other upon initiative of the CSSF.

1.2. National cooperation: working groups and conferences

In 2015, the SU.S.I. division represented the CSSF within the following committees, commissions, associations or working groups:

- Luxembourg For Finance/FinTech. Together with the department "Innovation, payments, market infrastructures and governance", the SU.S.I. division contributes to discussions on financial technology (FinTech), a business area in which companies use new technologies to provide financial services. Thus, in 2015, the SU.S.I. division carried out a more in-depth study of the technologies and risks related to virtual currencies (e.g. Bitcoin and Ripple). This covered, among others, the functioning of the blockchain and hot and cold wallet/storage solutions.

[1] Detailed explanations on on-site inspections are provided in Chapter XIV "Instruments of supervision".

- ABBL - Payment Commission. The work of this commission, in which the CSSF participates as an observer, focusses on payment means (traditional and emerging) and related services (such as e-invoicing or e-commerce) and on the related legal and regulatory framework.
- Association Luxembourgeoise des Membres et Utilisateurs SWIFT (ALMUS), which is the national association representing the interests of Luxembourg SWIFT users. The CSSF participates as an observer in the Board of Directors of ALMUS.

Moreover, the SU.S.I. division regularly exchanged information with Luxembourg banks in relation to the implementation of new solutions for card payments (dynamic 3DSecure, contactless payment, etc.).

The conferences and events which concern new technologies or new offers of IT services represent interesting information and exchange platforms in order to stay abreast of the evolution of new technologies. In this respect, the SU.S.I. division participated in many events organised in Luxembourg on topics such as mobile payments, tokenization, cloud computing, cybersecurity, virtual currencies, big data, etc.

1.3. International cooperation

1.3.1. Coordination of pan-European information exchange projects

Information exchange between the national and the European supervisory authorities calls for the implementation of an IT system that complies with the European legal requirements while meeting IT security requirements. Expert groups set up within the European supervisory authorities, namely the IT Management and Governance Group (ITMG) within ESMA and the IT Sounding Board (ITSB) within the EBA coordinate and ensure the correct implementation of these systems.

• ESMA - IT Management and Governance Group (ITMG)

The ITMG is the governance body of ESMA related to the technology of information systems. It monitors IT projects related to the systems of ESMA and ensures the coordination and follow-up of the pan-European project progress. Thus, most of the work of the ITMG concerned IT projects which are still on-going and which must support the regulatory requirements of data collection and reporting imposed by MiFID II, MiFIR and EMIR.

The functional specifications of two major projects delegated to ESMA by many national competent authorities (including the CSSF) were developed, namely:

- the FIRDS project (Financial Instruments Reference Data System): this project consists in ESMA collecting, storing and processing reference data on financial instruments from trading venues, including transparency calculations and coordination of suspension from trading of financial instruments, as required under MiFID II and MiFIR;
- the TRACE project (Access to Trade Repositories): this project is related to EMIR (European Market Infrastructure Regulation) which introduced the obligation for trade repositories to make any derivative contract available to regulators. The TRACE project consists in setting up at ESMA a central access point allowing (1) the national regulators to request data on derivative contracts from trade repositories and (2) the trade repositories to provide the requested data to regulators. This portal will be used as a gateway without storing the reported data.

Finally, the ITMG also monitored the implementation of an information exchange system allowing the collection of AIFM reporting in 2015. This system has been operational since June 2015.

• EBA - IT Sounding Board (ITSB)

The ITSB is in charge of coordinating the EBA's pan-European projects that require the development of homogeneous IT solutions for regulators. The CSSF contributed to the update of the Financial Reporting (FINREP) and Common Reporting (COREP) taxonomy through its participation in the XBRL sub-working group of the ITSB.

1.3.2. International cooperation relating to the supervision of the supervised entities' IT systems

The fast and continuous evolution of technologies brings about new forms of financial services (mobile, contactless payments) or more complex operational models (mutualisation of equipment), which are exposed to new threats (e.g. cyberattacks). It is therefore in the interest of any supervisory authority to take part in working groups allowing it to discuss with its peers and benefit from each other's experience. With this in mind, the CSSF takes part in the groups presented below.

• IT Supervisors Group (ITSG)

For many years, the CSSF has been a member of the international working group ITSG where it regularly discusses supervisory methods and current technological challenges with its peers.

The 2015 annual meeting was held in Kuala Lumpur under the aegis of the Bank Negara Malaysia (BNM). The discussions confirmed the strong consensus between the authorities on the risks and developments perceived as the most important ones:

- Cybercrime: this risk is constantly growing, given the extensive computerisation of the financial services combined with external connectivity that becomes increasingly significant, and a temptation for financial institutions to favour a quick deployment on the market and the convenience of technological innovations rather than security measures. Moreover, cybercrime is on the agenda of many authorities (United Kingdom, Singapore, etc.) which issued or intend to issue new recommendations on this matter, including, among others, the obligation to carry out regular penetration tests. Shortcomings in the management of patches, the complexity and fragmentation of the IT perimeters as well as the age of some systems and protocols used, appear to be the main reasons of the weaknesses observed in cybersecurity.
- Outsourcing and cloud computing: it is a recurring issue for authorities. Similarly to the financial institutions, a growing number of authorities have difficulties to ensure that the risks remain under control, particularly in the framework of global outsourcing (BPO and ITO) and intra-group outsourcing. The adoption of cloud computing is slightly increasing but concerns, in the vast majority of cases, only non-core services and applications (collaboration tools, email, web services, etc.). Overall, the problems for the regulators remain the same as in the preceding years: the large providers of cloud services often lack audit rights and transparency.
- Technological innovation and FinTech: as such, these elements are not perceived as a risk and most of the authorities consider that, on the contrary, it is very important not to block the financial sector from adopting innovative solutions. However, some members of the ITSG consider that many financial institutions underestimate the impact of these emerging technological changes. As regards payments, a significant mutation has already been observed with the development of mobile payments and the adoption of e-wallets.
- Quality of the data and financial reports: several members report increasing problems regarding data management (quality, integrity, confidentiality, data protection, etc.) and/or the quality of the reports. The main reason is, among others, the age of the reporting systems which require many manual interventions in order to produce the requested format and/or data.
- Obsolescence of the systems: the authorities expressed their worries regarding the sustainability and complexity of ageing IT platforms which are nevertheless still widely used.

• EBA – Task Force on IT Risk Supervision (TFIT)

The Standing Committee on Oversight and Practices (SCOP) of the EBA assists and advises the latter with regard to the permanent risk assessment in the banking sector, the promotion of cooperation between authorities and the enhanced convergence of supervisory practices. Given the growing importance of IT and the associated operational risks for the financial sector, the SCOP created a new Task Force on IT Risk Supervision in June 2015.

The TFIT includes the national supervisory authorities of all EU Member States and the different European institutions which participate in the task force as observers (ESMA, European Agency for Network and Information Security (ENISA), European Commission, ECB). During the first months of its existence, it launched three workstreams (WS):

- WS1 - Analysis and identification of transversal IT risks relevant to the supervisors;
- WS2 - Information exchange and feedback on IT risks. Its priority is the exchange on IT outsourcing, particularly, cloud computing. In this context, the WS2 organised, together with ENISA, a workshop on cloud computing in which financial institutions, regulators and providers of cloud services participated in order to exchange expectations and issues on this subject;
- WS3 - Guidelines and good practices. Its priority is to work on the guidelines relating to IT risk assessment in the context of the supervisory review and evaluation process (SREP).

• ECB – Drafting Team on IT Risk Methodology

In the framework of the Single Supervisory Mechanism (SSM) of the ECB, the Drafting Team on IT Risk Methodology was created at the end of 2015 and comprises members of the SSM's on-site inspection teams. Its purpose is to review the IT part of the existing methodology based on feedback provided and to adapt it so that it addresses emerging IT risks.

The working group is divided into three sub-groups: the first one is in charge of reviewing the existing methodology and the other two define the necessary developments in order to address the risks arising from cyberthreats and problems with data quality (within the meaning of the Basel Committee on Banking Supervision[2]).

• EBA and ECB - European Forum on the Security of Retail Payments (Forum SecuRe Pay)

The Forum SecuRe Pay is a common platform of the ECB and the EBA in which both are Co-Chairs and in which the supervisory authorities and the national central banks of the EU/EEA participate. Luxembourg is represented by the CSSF and the BCL as active members. The work of the Forum focusses on the security of electronic payment instruments, services and schemes available in the EU/EEA Member States. Its aim is to facilitate common knowledge and understanding between the authorities of the challenges in this matter and to enhance their cooperation. It can submit its analyses and recommendations to the ECB and the EBA which adopt them, where appropriate, in the form of an oversight framework, guidelines or technical standards.

Published in December 2015, the revised Payment Services Directive (PSD2) entrusts the preparation of guidelines and technical standards on the security of retail payment to the EBA in close cooperation with the ECB. Given the deadlines set for the publication of these guidelines and technical standards, the Forum SecuRe Pay spent almost the whole year 2015 preparing two of the security standards and guidelines that the EBA should deliver, without waiting for the official adoption of PSD2.

- Regulatory technical standards (RTS) on strong customer authentication and secure communication (Article 98 of PSD2)

  These standards must define the requirements relating to the strong customer authentication referred to in Article 97(1) and (2) and the possible exemptions from their application based on the risk level associated with the action carried out. They must also specify the requirements aiming to protect the confidentiality and the integrity of the payment service users' personalised security credentials. Finally, they must define the requirements applicable to common and secure open standards of communication between all the payment service participants (providers or users). The last two points are of particular importance given the perimeter of PSD2 which includes two new payment services and regulates their providers, namely account information services and payment initiation services.

  One of the main challenges, when drawing up such standards, is to define balanced requirements which ensure an appropriate security level while allowing for the development of user-friendly and innovative payment means, and a level playing field for all the payment service providers. Moreover, in December 2015, the EBA published a discussion paper drawn up by the working group of the Forum in charge of drafting these standards which invites the market participants to provide their input on these issues by 8 February 2016. The goal is to finalise the draft technical standards which will be submitted for public consultation during the summer of 2016.

[2] http://www.bis.org/publ/bcbs239.pdf.

- Guidelines on incident reporting (Article 96-3 of PSD2)

  These guidelines are addressed to:

  - payment service providers with respect to the classification of major incidents and the procedures for reporting them to the competent authority of the home Member State as required by PSD2;
  - competent authorities with respect to the criteria on how to assess the relevance and details of the incidents to be reported to other national authorities.

  In 2015, the Forum reviewed the situation of and analysed the national procedures for reporting and classification of existing incidents in some EU/EEA countries. The drawing-up of the draft guidelines is planned for 2016.

It is noteworthy that the Forum SecuRe Pay will start work related to Article 95-3 of PSD2 in 2016. This work will consist of guidelines on the drawing-up, implementation and monitoring of the measures taken by payment service providers in order to manage operational and security risks associated with the services they provide.

1.4. Developments in the regulatory framework

In 2015, the regulatory framework applicable for the supervision of information systems evolved as follows.

1.4.1. Circular CSSF 15/603: Security of internet payments

The EBA published the "Final guidelines on the security of internet payments" (ref.: EBA/GL/2014/12) on 19 December 2014. These guidelines establish the minimum requirements in relation to security that EU payment service providers must comply with.

On 9 February 2015, the CSSF published Circular CSSF 15/603 on security of internet payments which implements these EBA guidelines into Luxembourg law.

1.4.2. Circular CSSF 15/611: Outsourcing of systems that allow the compilation, distribution and consultation of management board/strategic documents

In its 2014 Annual Report, the CSSF already dealt with the outsourcing of systems that allow the compilation, distribution and consultation of documents drawn up by or submitted to the Board of Directors/management board of a company. In 2015, the CSSF formalised its position on this matter via Circular CSSF 15/611.

Thus, the CSSF draws the attention of entities to the fact that the data stored in such a system located at and managed by an external service provider may be sensitive. The CSSF would like to remind the entities that it is their responsibility not to disclose any information that is considered confidential pursuant to Article 41 of the law of 5 April 1993 on the financial sector to a third party such as a service provider, unless the latter falls within the scope of Article 41(5) of the above-mentioned law.

The CSSF considers that the entities must perform their own due diligence which includes a detailed assessment of the security aspects of the service provider. These service providers might be a strategic target for hackers and fraudsters as they potentially store information of great value due to their nature (sensitive data) or their volume (concentration of data on one system).

2. SUPERVISION OF INFORMATION SYSTEMS IN PRACTICE

The purpose of this section is to share with the supervised entities the CSSF's point of view on certain new or recurring topics that the SU.S.I. division dealt with during its supervisory activities in 2015.

2.1. Use of tools for monitoring and analysing traffic on the entities' websites

In 2015, the CSSF was asked to take a stand on the use of tools for monitoring and analysing traffic/audience of the entities' websites. These tools allow drawing up statistics on the traffic patterns of websites by inserting a javascript code in the webpages concerned.

The CSSF noted that the use of such tools may constitute a problem regarding confidentiality, since information such as the IP address of the users of the website may be transmitted to a third-party company offering the analysis of the website's visitors.

For purely informative websites, the exchange of such information is not a problem because the website is public and it is not possible to conclude that the user identified through his/her IP address is a customer of the entity to whom the website belongs.

However, for consultation and transaction websites, information such as the IP address of a visitor may be considered as confidential, since it allows the localization of the customer's computer and, consequently, of his/her address and identity. In accordance with Circular CSSF 12/552, any information transmitted to a third-party company other than a Luxembourg support PFS or credit institution and which may be linked to a particular user in order to monitor his/her behaviour must be made anonymous prior to the transmission.

Should the entity or a support PFS first collect monitoring information and this information is then transmitted to a third-party company (other than a support PFS) for analysis of traffic patterns, this monitoring information must be rendered anonymous before transmission to the third-party company.

Finally, before any implementation of a traffic monitoring system on a consultation or transaction website, the entity must test the solution in order to check that no information that may be associated with a particular user is transmitted to a third-party company (other than a support PFS).

The CSSF would also like to reiterate that information such as the IP address must not be logged with the host of the website if the latter is not a support PFS.

2.2. Recovery of outsourced data in case of bankruptcy of the subcontractor

The Luxembourg Commercial Code (Article 567)[3] was amended in 2013 and ensures that entities, outsourcing their data with a company established in Luxembourg, can easily recover their data in case of bankruptcy of the subcontractor.

However, the CSSF draws the attention of the supervised entities to the fact that the national regulations applied in other countries may not offer the same guarantees. Thus, in case of outsourcing with a company established outside of Luxembourg, the entities which outsource must ensure that the national regulation allows them to recover their data in case of bankruptcy of the subcontractor.

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[3] Law of 9 July 2013 amending Article 567 of the Commercial Code:
http://www.legilux.public.lu/leg/a/archives/2013/0124/a124.pdf#page=2.
http://www.itnation.lu/news/luxembourg-legifere-la-reversibilite-des-donnees-en-cas-de-faillite-dun-prestataire-de-cloud/10822/.

2.3. Outsourcing in a cloud: work in progress and reminder of the applicable requirements

2.3.1. Launch of a cloud project

The CSSF participates in a working group on IT outsourcing and, in particular, on outsourcing in a cloud, which was set up by the EBA mid 2015 (cf. point 1.3.2. of this chapter). The work of this group and a study carried out by ENISA[4] (European Union Agency for Network and Information Security), to which the CSSF contributed, concluded that, overall, the extent of adoption of cloud computing by the European financial sector was low.

According to ENISA, one of the reasons would be the absence of exchange of information between regulators, financial institutions and providers of cloud services. This makes the mutual understanding of risks linked to cloud computing for a financial institution being the client of the cloud service provider, and of the measures to be implemented (security, organisation, contracts, etc.), more complicated.

Given the increasing interest for cloud solutions, the CSSF recently launched a cloud project with the view of analysing the functioning and management methods of cloud services provided by some major players in this area, including public clouds. This project will continue in 2016 and will require, as recommended by ENISA, many discussions with the providers of cloud services. The conclusions of this project will lead, where appropriate, to the development of a Luxembourg regulatory framework relating to IT outsourcing in general and, particularly, the use of cloud solutions. This framework may of course vary according to the risk level of the project, which itself depends, for example, on the type of entity concerned (bank, payment institution, PFS, etc.), the nature of the outsourced systems (supporting or not material activities), the level of sensitivity of the data or the type of services provided (infrastructure, platform or software-as-a-service).

2.3.2. Reminder of the currently applicable requirements

In 2015, the CSSF was frequently contacted in relation to its position on outsourcing to a cloud. It also received several authorisation requests to outsource CRM systems (Client Relationship Management) in cloud computing mode. These requests are currently being analysed.

Whilst waiting for the conclusions of the above-mentioned cloud project, please note that the regulatory requirements in case of IT outsourcing (whether in cloud computing mode or not) laid down in Circulars CSSF 12/552 and CSSF 05/178 are still applicable. Furthermore, the prudential principles concerning the use of cloud computing, detailed in the 2011 Annual Report, remain applicable.

It should be borne in mind that a supervised entity that wishes to use a cloud operated by a company which is not a support PFS must first submit an authorisation request to the CSSF.

2.3.3. Reminder to support PFS: presentation of cloud services to the CSSF

In 2015, the CSSF received authorisation applications in which the applicants envisaged to outsource all or part of their IT systems to clouds operated by support PFS, some of which never presented their cloud solution to the CSSF.

As the CSSF previously stated, the support PFS that put in place a cloud service (even outside the financial sector) must present the commercial and technical aspects of this service (cf. point 2.2. of Chapter X "Supervision of information systems" of the 2011 Annual Report) to the CSSF. Subsequently, for an entity applying for an authorisation wishing to use the cloud services provided by a support PFS, the CSSF does not require a detailed description in the application file of the functioning and management of the cloud already known to the CSSF.

The support PFS which have not yet presented their cloud solution to the CSSF, are invited to do so as soon as possible. Failing to do so could cause difficulties during the scrutiny of the applications for authorisation or even during a simple outsourcing notification by entities already supervised and may prove to be detrimental to the support PFS and their (future) clients.

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[4] Report published by ENISA in December 2015 titled "Secure Use of Cloud Computing in the Finance Sector" (https://www.enisa.europa.eu/activities/Resilience-and-CIIP/cloud-computing/cloud-in-finance).

2.4. Solutions for the identification of clients via videoconferencing

The SU.S.I. division analysed the solutions which allow the identification of customers via videoconferencing and defined the security requirements to be met in order to be able to implement such solutions. This work was carried out together with the CSSF's legal department (for further details, cf. point 3. of Chapter XVI "Financial crime").

2.5. Data protection: principles of privacy by design and need to know

The CSSF reminds the supervised entities that the protection of data, including personal data, for which they are responsible is an objective to be taken into account from the moment the internally-developed IT systems are being designed (privacy by design) or as soon as a software package is being analysed with the view to being purchased. Moreover, the institutions must ensure that access to data for which they are responsible is only given to persons whose function justifies this access (strict compliance with the principle of need to know).

These two principles must also be complied with in the context of outsourcing and, ideally, should be supplemented with the security by design principle in order to take the risk of cybercrime into account from the moment the systems and applications are being designed.

2.6. Cybercrime

Like in the previous year, the reports on cybercrime show a constant increase in the number of attacks and their ingenuity. During a workshop on cyber resilience of the European financial sector organised by the European Commission, all the participants present (financial institutions, national and European regulators, experts in cybercrime) confirmed that the financial sector remains the favourite target.

In 2015, the Single Supervisory Mechanism (SSM) of the ECB also looked at the capacity of the significant banks, within the meaning of the SSM, to protect themselves against cyber risks. The cybersecurity implemented by banks will remain a priority issue for the SSM in 2016.

Luxembourg is no exception to this rule and the number of cyberattacks also increased in 2015. Moreover, following the publication of Circular CSSF 11/504, the CSSF received an increasing number of reports on frauds and incidents due to external computer attacks. Among these reports, the following are noteworthy:

- ransomware[5] attacks where a virus encrypts all the documents of the infected computer as well as all shared folders on the network. When the encryption is finished, a ransom is requested from the victim in exchange for the key that will decrypt the files concerned. Luckily, the damages reported by the financial institutions in such cases were limited due to, among others, the segregation of internal networks which reduced the propagation of the virus. It should be noted that the infection took place following the reception of an email containing an attachment which, when opened, installed the virus.
- attacks targeting corporate banking solutions[6]: payment initiation via these solutions is usually protected through a strong user authentication involving the use of a smart card solely connected to a computer at the time of payment and a PIN code for the card activation. However, in these fraud cases, the users left their smart card permanently connected to the computer, which was in turn connected to internet and thus exposed to the threat of a virus infection (virus via email or via browsing on a corrupted website). The computer was then infected with a Trojan (in this case Dridex) which allowed the interception of the PIN code, the activation of the smart card connected to the computer and the initiation of fraudulent payments without the user's knowledge. This type of attack concerned several payment solutions in Europe.

The entry points used to initiate the infections allowing these attacks (email, internet browser) highlight the importance for financial institutions to continue to raise the awareness of their customers and employees about cyber risks and to educate them on the good practices (for example, disconnecting the smart card after using it).

[5] For further information and advice on ransomware, please refer to https://www.circl.lu/pub/tr-41/.

[6] For further information and advice on attacks targeting corporate banking solutions, please refer to https://www.circl.lu/pub/tr-38/fr/.

Finally, the CSSF draws the attention of financial institutions to the importance of patch management in the fight against cybercrime. Various sources (regulators, solution providers, penetration tests reports) share the opinion that vulnerabilities existing for a long time and for which patches have been available since a long time still persist. These vulnerabilities represent an entry point for hackers who may remain in the systems of the institution for months without being detected. Although the financial institutions are responsible for their own risk analysis, such a situation is unacceptable. The CSSF strongly recommends that institutions patch their old, still active vulnerabilities.

In general, institutions must have a monitoring process in place in order to be quickly informed of the emergence of new security vulnerabilities, as well as a procedure to manage patches allowing the correction of these vulnerabilities within a short period of time if they can significantly impact their IT systems. The CSSF considers that the internal audit must include the review of the monitoring processes and the management of patches in their multi-annual audit plan.

CHAPTER XIII

PUBLIC OVERSIGHT OF THE AUDIT PROFESSION

1. DEVELOPMENT OF THE LEGAL AND REGULATORY FRAMEWORK

1.1. Developments in the legal framework

In December 2015, a preliminary draft law transposing Directive 2014/56/EU amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts and including certain options provided for in Regulation (EU) No 537/2014 on specific requirements regarding statutory audit of public-interest entities has been transmitted to the Ministry of Finance.

This preliminary draft law has been prepared during the year 2015 by an ad hoc committee composed by representatives of the Ministry of Finance, the Ministry of Justice, the Institut des Réviseurs d'Entreprises (IRE) and the CSSF. Before being transmitted to the Ministry of Finance, it has been submitted to the Consultative Committee for the Audit Profession.

The main options relating to public-interest entities retained in the preliminary draft law are:

- the maximum duration of a statutory audit may no longer exceed 10 years. However, it may be extended by 10 years where a public tendering process is conducted. Under no circumstances can this duration exceed 20 years;
- subject to certain requirements, *réviseurs d'entreprises agréés* (approved statutory auditors) and *cabinets de révision agréés* (approved audit firms) may provide certain tax and valuation services, as provided for in Article 5(3) of Regulation (EU) No 537/2014.

The preliminary draft law differs from the current law of 18 December 2009 concerning the audit profession on the following elements:

- the initial duration of an audit engagement is set at three years;
- the other assignments which are currently entrusted exclusively to *réviseurs d'entreprises agréés* and *cabinets de révision agréés* by law will no longer be subject to the system of public oversight of the audit profession and may be carried out by *réviseurs d'entreprises* and audit firms with no approval requirement;
- the provisions relating to the internal organisation of *cabinets de révision agréés* and independence rules transposed from Directive 2014/56/EU must, from now on, prevail over the standards governing the profession;
- the development of preventive measures and the revision of the sanctioning regime in order to comply with the requirements of Directive 2014/56/EU.

1.2. Developments in the regulatory framework

In the context of the transposition of Directive 2014/56/EU, it was considered appropriate to also modify certain provisions of the Grand-ducal regulations relating to, on the one hand, the requirements for the professional qualification of *réviseurs d'entreprises* and, on the other hand, the organisation of the continuing training of *réviseurs d'entreprises* and *réviseurs d'entreprises agréés*.

These amendments have been discussed within the ad hoc committee mentioned above in December 2015 and transmitted to the Ministry of Finance following the positive opinion by the Consultative Committee for the Audit Profession.

1.2.1. Amendment of the regulatory provisions relating to the professional qualification requirements of *réviseurs d'entreprises*

In order to simplify the administrative procedure to be completed by the candidates for the audit profession, it has been proposed, on the one hand, to remove the requirement to obtain the certificate of complementary training within a maximum period of six semesters and, on the other hand, to replace the training log by a mail indicating the activity fields in which the candidate worked during his/her training.

1.2.2. Amendment of the regulatory provisions relating to the organisation of continuing training of *réviseurs d'entreprises* and *réviseurs d'entreprises agréés*

It has been proposed to adjust the hours of continuing training in various subjects in accordance with the legal and regulatory framework developments governing the profession.

1.3. Developments in audit standards

The Technical Audit Committee, consisting of CSSF and IRE representatives, is currently working on the drafting of new audit report templates.

In view of the adoption of revised standard ISA 700 "Forming an opinion and reporting on financial statements" and standard ISA 701 "Communicating key audit matters in the independent auditor's report", which will be effective for the financial years closing on or after 15 December 2016, and of the entry into force of Regulation (EU) No 537/2014 which lays down specific requirements regarding the content of the audit report for public-interest entities for the financial years starting as from 17 June 2016, an analysis has been carried out in order to suggest audit report templates which suit different situations.

For non-listed entities, the changes consist mainly in a restructuring of the paragraphs of the existing audit report template, where the audit opinion is now expressed first.

For listed entities and, in a second phase, for all public-interest entities (for the financial years starting as from 17 June 2016), the audit report must also indicate, in a separate paragraph, the most significant assessed risks of material misstatements, the audit strategy implemented to address them and, where applicable, the observations made on these risks during the audit.

2. EUROPEAN COOPERATION WITHIN THE EAIG (EUROPEAN AUDIT INSPECTION GROUP)

The purpose of the EAIG is to promote and facilitate cooperation amongst European audit regulators. Since 2014, the dialogue between the authorities belonging to this group is fed by information collected in a database, which contains the findings of the quality assurance reviews made in the 10 largest European networks[1] and concerning the audit of public-interest entities. As a continuation of this work, bilateral meetings took place between the EAIG members and the four largest audit networks. These meetings allow communicating on the development of the profession and the main issues raised during the audit firms' quality assurance reviews by the networks or regulators.

2.1. Common inspection methodology at European level

A common inspection methodology, the "Common Audit Inspection Methodology" (CAIM), is currently being developed in order to promote consistency in the quality assurance reviews implemented in the various Member States. The first module of this methodology has been adopted in 2014 and relates to the audit firms' systems of quality control (for further details, please refer to point 3.4.1. below).

In 2015, the CSSF coordinated an EAIG sub-group whose objective is to develop the second module of this common methodology, focussing on the reviews of statutory audit files. The first inspection programmes resulting from this work relate to the audit of accounting estimates and group audits, as significant shortcomings are regularly identified for these issues when analysing the significant findings shared throughout the European database.

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[1] PwC, KPMG, Deloitte, EY, BDO, GT, Nexia, Baker Tilly, Mazars and Moore Stephens.

2.2. Common positions of the European regulators on international standards on auditing and ethics

The regulators' common positions as a feedback to the consultations organised by the IESBA (International Ethics Standards Board for Accountants) on the proposed amendments to the international code of ethics have been formalised by comment letters co-signed by the CSSF, which can be summarised as follows.

- **Improving the Structure of the Code of Ethics for Professional Accountants (comment letter of 4 February 2015)**

In November 2014, the IESBA issued an exposure draft of proposed changes to the structure of the international code of ethics. While supporting the initiative of restructuring the code to improve its readability, the regulators also insisted on the importance to complete this project jointly with the proposed revision pertaining to safeguards where threats to independence are identified.

- **Responding to Non-Compliance with Laws and Regulations (comment letter of 28 August 2015)**

Upon the consultation published by the IESBA in May 2015, the European regulators recalled the need to harmonise the code of ethics with the international audit standards and to take into consideration the measures introduced by the European audit reform.

Moreover, the IAASB (International Auditing and Assurance Standards Board) launched the consultation "Invitation to Comment: Enhancing Audit Quality in the Public Interest" in December 2015, which focusses on professional scepticism, on the quality control standard of audit firms and on international audit standards on audit engagement quality control as well as on group audits. A comment letter to this consultation will be drawn up in 2016.

3. QUALITY ASSURANCE REVIEW

3.1. Scope

3.1.1. General framework

By virtue of the law of 18 December 2009 concerning the audit profession (Audit Law), *réviseurs d'entreprises agréés* and *cabinets de révision agréés* are subject to a quality assurance review, organised according to the terms laid down by the CSSF in its capacity as supervisory authority of the audit profession, for assignments concerning statutory audits as well as for any other assignments which are entrusted exclusively to them by law.

The quality assurance review takes place at least every six years. This cycle of review has been brought down to three years for *réviseurs d'entreprises agréés* and *cabinets de révision agréés* that audit public-interest entities (PIEs).

- **Population of *cabinets de révision agréés* and *réviseurs d'entreprises agréés* concerned by the quality assurance review**

The population of *cabinets de révision agréés* and *réviseurs d'entreprises agréés* that carry out statutory audits and other assignments entrusted exclusively to them by law is as follows (as at 31 December 2015):

- Number of approved audit firms: 66, including 14 that audit PIEs;
- Number of approved independent *réviseurs* (auditors): three, none of which audits PIEs.

Based on the data collected through the "Annual Annexes" for the year 2015, the statutory audit assignments break down as follows between *cabinets de révision agréés* and independent *réviseurs d'entreprises agréés*:

- 80% of the assignments are carried out by the "Big 4"[2];
- 14% of the assignments are carried out by middle-sized audit firms[3], and
- 6% of the assignments are carried out by the other audit firms and independent *réviseurs*.

3.1.2. Scope of the quality assurance review

The CSSF follows a global approach of control in which the audit firm is the entry point for the periodical quality assurance review.

The purposes of the controls carried out by the CSSF are, among others, to:

- assess the existence and efficiency of the design and functioning, within the audit firm, of an organisation, policies and procedures aimed to ensure the quality of the statutory audit engagements and the independence of the *réviseur d'entreprises agréé/cabinet de révision agréé*;
- verify, based on a selection of control files, the correct execution of these engagements in accordance with the legal and regulatory framework in force in Luxembourg;
- verify the content and publication of the transparency report for *cabinets de révision* (audit firms) that are required to draw up such a report;
- assess, where applicable, the actions implemented by the *réviseur d'entreprises agréé/cabinet de révision agréé* in order to address shortcomings noted during the previous reviews.

3.1.3. Organisation of the quality assurance review

Quality assurance reviews include several stages:

- collection of preliminary information;
- elaboration of a control plan;
- on-site inspections;
- presentation of the observations made;
- analysis of the responses to the observations made, and
- writing and issuing of a report.

3.1.4. Conclusion of the quality assurance review

After the quality assurance review, the CSSF issues:

- measures against *réviseurs d'entreprises agréés* acting as signatory partners for the audit files which present significant shortcomings in relation to the legal and regulatory framework in force in Luxembourg; without being exhaustive, these measures may be training plans, internal reviews of the files by another partner before issuing the opinion, and may be complemented, where applicable, by a specific follow-up in accordance with the provisions of Article 60 of the Audit Law;
- a summary for the firm which includes the main deficiencies relating to its internal organisation for which the CSSF requires that corrective measures be taken.

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[2] PwC, KPMG, Deloitte, EY.

[3] Firms that carry out more than 100 assignments entrusted exclusively to *réviseurs d'entreprises agréés* and *cabinets de révision agréés* by law. As at 31 December 2015, four firms were concerned.

3.1.5. Follow-up on the conclusions of the quality assurance reviews

A follow-up is set up to verify that the firms and/or *réviseurs* concerned have taken appropriate corrective measures to address the shortcomings previously noted.

Where the weaknesses are not considered as being material, the corrective measures taken by the audit firms will be followed up during the next periodic quality assurance review scheduled within the legal deadlines. In case of material weaknesses, a specific follow-up will be programmed within 12 months from the date of issue of the report.

A specific follow-up may be programmed for the *cabinet de révision agréé* and/or for a *réviseur d'entreprises agréé* of the *cabinet de révision agréé*.

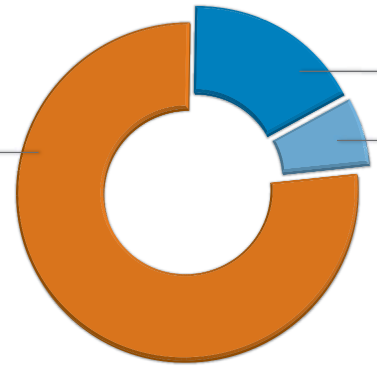
3.2. Activity programme for 2015

The CSSF set down a multiannual programme for the control of *cabinets de révision agréés/réviseurs d'entreprises agréés* which aims at observing the legal quality assurance review cycle, this cycle being three years for firms that audit PIEs and six years for the other ones. This programme was based on the information transmitted by audit firms and *réviseurs* through the "Annual Annexes" relating to their activity.

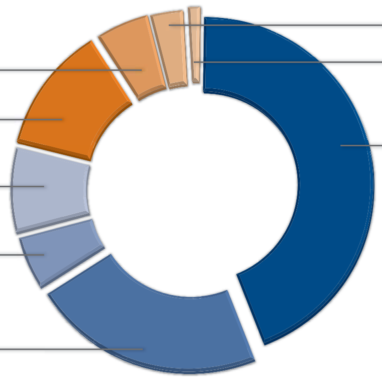
Activity programme for 2015	Key data
The quality assurance reviews according to the 2015 programme covered: - the understanding and documentation of the organisation, policies and procedures established by the reviewed audit firms in order to assess compliance with the International Standard on Quality Control (ISQC 1); - the review of a sample of audit files relating to statutory audit assignments of the financial year 2014 (or 2013, where applicable); - the review of a sample of audit files carried out in the framework of the assignments entrusted exclusively to *réviseurs d'entreprises agréés* and *cabinets de révision agréés* by the Audit Law; and - the setting-up of a specific follow-up for professionals for which material weaknesses were noted in the previous financial years.	23 reviewed firms, nine of which audit PIEs and 12 are members of an international network
The 23 reviewed audit firms reported[4] a total of 9,736 mandates falling within the scope of public oversight of the CSSF, including 470 in relation to PIEs. These mandates include 8,485 statutory audits, of which 425 concern PIEs.	128 controlled mandates, including 28 PIEs
The quality assurance reviews started in January 2015 and were carried out by eight CSSF inspectors with professional audit experience and expert knowledge in the business areas of the financial centre.	6,621 hours

[4] Based on the statements of *cabinets de révision agréés* as at 31 December 2014.

Breakdown of audit files reviewed by the CSSF in 2015 per entity type



Breakdown of audit files reviewed by the CSSF in 2015 per sector



3.3. Conclusions of the 2015 campaign of quality assurance reviews

Among the 23 firms reviewed in 2015, one was subject to a specific follow-up due to conclusions from preceding campaigns. This measure has been lifted.

Seven *réviseurs d'entreprises agréés* were subject to the double signature measure together with a specific follow-up. Following the observations made, the double signature measure has been lifted for six of them. The specific follow-up was upheld for three *réviseurs d'entreprises*, one of them being currently subject to an internal quality review of his/her files before the issue of an opinion.

Six *réviseurs d'entreprises agréés* were subject to a specific follow-up in 2015. Following the observations made, the specific follow-up was upheld for one of them.

For the 2015 campaign, the following specific conclusions were transmitted to the *réviseurs d'entreprises agréés*:

- a training plan was given to 13 *réviseurs d'entreprises agréés*;
- four *réviseurs d'entreprises agréés* were subject to a specific follow-up;
- an administrative fine was imposed on one *réviseur d'entreprises agréé*;
- the approval as referred to in Article 5 of the Audit Law and the registration on the public register of one *réviseur d'entreprises agréé* have been suspended for a period of one year.

Moreover, five *cabinets de révision agréés* are now subject to a specific follow-up.

3.4. Major issues identified during the quality assurance reviews of 2015

3.4.1. Review of the quality control systems of *cabinets de révision agréés*

In 2015, the analysis of the quality control policies and procedures of *cabinets de révision agréés* and their implementation has been set up on the basis of the European work programmes (CAIM) developed at the EAIG's initiative with a focus on the following areas:

- relevant ethics rules (including independence rules);
- responsibilities of the management on quality control throughout the firm;
- engagement performance; and
- monitoring.

In several instances, the CSSF identified shortcomings in the update of the group structures for which the firms perform statutory audit assignments. This update must take place on a regular basis to allow statutory auditors and audit firms to verify if their independence obligations are fulfilled. The reliability of this information will be of particular importance in the context of the entry into force of Directive 2014/56/EU and Regulation (EU) No 537/2014 and, in particular, the new provisions relating to the independence of statutory auditors.

Improvements have been noted in the involvement of the persons in charge of the Engagement Quality Control Reviews (EQCR). However, the documentation on the diligences performed by the persons in charge of these reviews could be improved, mainly as regards:

- the evaluation of the independence of the *réviseur d'entreprises agréé* vis-à-vis the audited entity;
- the discussion of important issues with the partner responsible for the engagement;
- the review of important judgements carried out and the conclusions thereof; and
- the fact of indicating whether appropriate consultations have been held and the review of the conclusions thereof.

Apart from these comments, the work performed did not raise any significant shortcomings on the quality control systems of *cabinets de révision agréés*.

3.4.2. Audit files

The findings of the 2015 assurance quality reviews show an improvement in the quality of the audits in a number of areas, notably as regards the understanding and evaluation of the operating effectiveness of the internal controls. This improvement in the quality of the audits is mostly the result of the continuous efforts undertaken by *réviseurs d'entreprises agréés* and the professional staff of *cabinets de révision agréés* to carry out their work in accordance with the professional standards and the applicable legal and regulatory requirements. It can also be explained by audit firms' effective implementation of action plans which take into account the observations from the internal and external quality review campaigns of the previous years.

This positive note must, however, not be perceived as an end result, but rather as an encouragement to continue promoting quality as an essential element of the performance of audit assignments. Further observations have been made during the 2015 quality assurance reviews. The main recurring comments concerned:

- the audit of accounting estimates;
- the use of the work of another auditor; and
- the procedures implemented in the context of revenue recognition.

The CSSF notes that similar shortcomings were also identified by the supervisory authorities of the audit profession from other European and/or international countries and that the points listed below were observed in big as well as in small audit firms.

• Audit of accounting estimates

As in 2014, the audit of accounting estimates represents an important part of the observations made. Among the most frequently observed shortcomings, the CSSF points out:

- a lack of professional scepticism in assessing the reasonableness of the assumptions retained by the management;
- the use, as audit evidence, of information which is not observable on markets without having previously tested its reliability;
- a deficient evaluation of the adequacy of the work of valuation experts engaged by the auditor;
- the non-execution or insufficient execution of additional substantive procedures for accounting estimates giving rise to significant risks.

The latter observations mainly concern the fair value estimates of illiquid securities or also the estimates of deferred losses for long-term flat-rate contracts.

As regards accounting estimates which give rise to significant risks, the CSSF reminds that where the management did not adequately address the effects of estimation uncertainty on the accounting estimates, the auditor must, if considered necessary, develop a range within which s/he evaluates the reasonableness of the accounting estimate.

Finally, the CSSF draws the auditors' attention to the accounting estimates for which there is strong and consistent evidence tending to undermine the valuation retained by the management. In a situation in which the auditor has doubts on the reliability of the information which will be used as audit evidence, not only must the auditor define the amendments to the audit procedures or the additional audit procedures to be implemented to solve the issue, but the auditor must also raise the question of a possible impact of this issue on the other aspects of the audit.

• Using the work of another auditor

Several shortcomings have been identified during the 2015 quality assurance reviews as regards the use of another auditor's work, not only in the context of group audits but also where the auditor uses the work of another auditor having a specific expertise in a specialised field of accounting or audit.

As regards group audits, the shortcomings identified notably concern:

- an insufficient participation of the group engagement team in the risk assessment carried out by the auditors of significant components in order to identify the risks of material misstatements at the level of the group's financial statements;
- a deficient evaluation of the communication of the auditors of significant components and of their work's adequacy;
- the inappropriate decision, when considering facts and circumstances of the engagement, not to review other relevant parts of the audit documentation of component auditors, be it during an on-site inspection or via a direct access to the electronic assignments of the latter; and
- the insufficient involvement of the auditor in the management, monitoring and performance of the group audit. This last item refers more specifically to group audits whose decision-making and administrative centre is located abroad and for which similar shortcomings had been observed during previous inspection campaigns.

In order to improve the quality of the audits facing such issues, the CSSF encourages auditors to take into account the base principles defining the responsibilities of the partner in charge of such a mandate, as reminded by the IAASB in its publication of 14 August 2015 entitled "Staff Audit Practice Alert: Responsibilities of the Engagement Partner in circumstances when the Engagement Partner Is Not Located Where the Majority of the Audit Work is Performed".

Shortcomings have also been observed where the auditor uses the work of another auditor having an expertise in a specialised field of accounting or audit. This is notably the case where the audited entity uses externalised IT systems within another entity of the group for the drafting of its financial information, or where internal control measures are performed within another entity of the group.

In this type of environment, the CSSF noted the following shortcomings:

- the absence of an agreement with the other auditor on the nature, scope and objectives of his/her work in order to address the audit risks identified at the level of the audited entity; and
- the deficient valuation of the adequacy of the other auditor's work, including the relevance and reasonableness of his/her observations or conclusions.

On this last item, the CSSF encourages the auditor to ensure that the controls validated by another auditor are well identified and effectively cover the assertion referred to in the test as well as to collect audit evidence on the sample which is tested and the results obtained.

Similar situations have been found where the auditor of an entity uses the work on value loss tests performed on the consolidated accounts of the group to obtain a reasonable assurance of the absence of a lasting depreciation of financial assets in the annual accounts of this entity. In certain cases, the CSSF noted that the values-in-use audited by the group auditor have not been subject to an appropriate analysis in order to be adequately used for the statutory audit of the audited entity.

• Procedures implemented in the context of revenue recognition

Shortcomings have been noted during the 2015 quality assurance reviews in the revenue recognition procedures, notably where the auditor applies a substantive audit strategy principally based on substantive analytical reviews.

In such situations, the CSSF has identified, among others, the following weaknesses:

- the use of IT system data to define the amounts or ratios expected without the auditor having performed a prior test on its reliability and exhaustiveness;
- the performance of a substantive analytical review at a level which is considered too aggregated and/or the definition of not sufficiently precise expected results to allow identifying a material misstatement compared to the desired level of assurance;
- insufficient additional investigations in case of significant spreads between the amounts registered and those expected;
- the implementation of additional tests of details based on too small-sized samples and/or whose sample selection method is not adapted to the objectives pursued by these tests.

Finally, in certain cases, because of the facts and circumstances of the assignment and, notably, the strongly computerised environment of the audited entity, the substantive procedure alone could not provide sufficient and appropriate audit evidence for the assertions and the auditor should have performed verifications on internal controls and, in particular, on the relevant applicative controls for the audit.

Among the other observations on the revenue recognition audit, the CSSF also noted:

- a deficient performance of tests of controls not focussing on internal controls implemented within the audited entity and intended for the validation of an audit assertion, but rather consisting in a reconciliation between order form, delivery note and invoice. In such situations, the auditor may not invoke having received an assurance on the controls to decrease the scope of the substantive procedure to be performed;
- the flawed analysis, for the products accounted for according to the percentage-of-completion method, of the compliance with the requirements and reliability of the data needed to proceed to the recognition of the turnover following this method and the implementation of insufficient procedures aiming at auditing the percentage of completion retained by the management.

3.4.3. Theme of the 2015 campaign

In the framework of its activity programme, the CSSF performed a thematic inspection on audit sampling carried out in the context of tests of details.

This examination, which is based on 42 audit sampling reviews focussed on the following nine areas of attention:

- the exhaustiveness and homogeneity of the population from which the auditor wishes to draw conclusions;
- the reasonableness of the parameters considered in order to determine the size of the sample and, in particular, (i) the materiality threshold used, (ii) the number of misstatements the auditor expects to find in the population, and (iii) the confidence level sought and its consistency with the audit risk assessment linked to the tested assertion;
- the mathematical formula used by the auditor to determine the size of the audit sample in accordance with the above parameters;
- the fact that all the items within a population indeed have a chance of selection;
- the appropriateness of the sample selection method;
- the selection of a replacement item in case an initially selected item does not allow the application of the audit procedure;
- the investigations on the nature and cause of the misstatements identified and the evaluation of any possible impact on the objective sought by the audit procedure and on other audit fields;
- the extrapolation of misstatements identified through the sampling to the whole population; and
- the adequate evaluation of the sampling results.

The results of this thematic review are overall satisfactory, as the auditors rely on a reasonable basis for almost the entirety of the samples tested, which allowed them to effectively draw conclusions from the population from which the samples were taken.

However, this overall positive result must be mitigated due to the following deficiencies:

- in 12% of the cases, the exhaustiveness or homogeneity of the population from which the auditor intended to draw its conclusions was not adequately established;
- the selection method used was not correctly defined for 9% of the sampling tested;
- for one sample tested, the confidence level sought was inconsistent with the audit risk assessment linked to the tested assertion and the additional audit procedures related to this same assertion;
- in 5% of the samples tested, several elements selected did not allow meeting the objective sought through the procedure without having selected replacement elements;
- one sample tested, arbitrarily determined, resulted being insufficient to reduce sampling risk at an acceptable low level.

4. OVERVIEW OF THE POPULATION OF *RÉVISEURS D'ENTREPRISES* (STATUTORY AUDITORS) IN LUXEMBOURG

4.1. Access to the audit profession

4.1.1. Activities of the Consultative Commission for the access to the audit profession

The Consultative Commission's task is, among others, to verify the theoretical and professional qualification of the candidates for the access to the audit profession in Luxembourg, as well as that of the service providers from other Member States wishing to exercise by way of free provision of services.

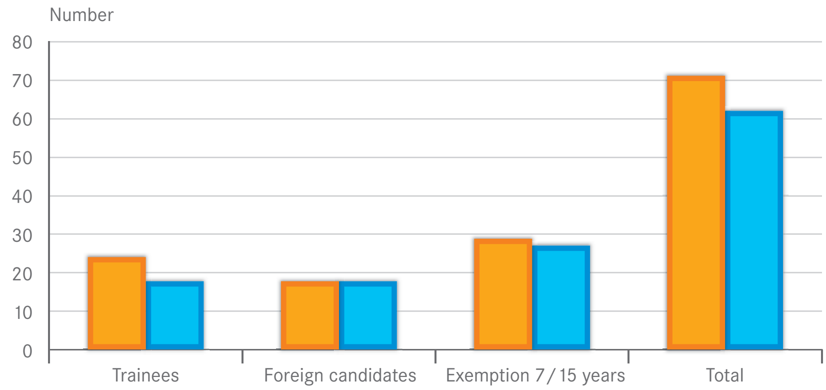
The Commission met six times in 2015 and analysed the files of 63 candidates, against 71 in 2014, representing a drop of 11%.

In 2015, the access to training was refused to five candidates (8%) as the number of subjects to be completed based on their administrative certificate was greater than five.

There are four categories of candidates:

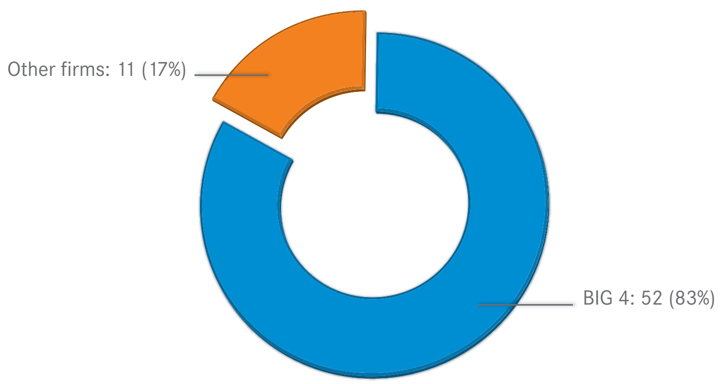
- trainee *réviseurs d'entreprises*;
- foreign candidates;
- candidates applying for exemptions based on their professional experience of either 7 or 15 years; and
- candidates requesting to exercise assignments entrusted exclusively to *réviseurs d'entreprises agréés* and *cabinets de révision agréés* by law, by way of the free provision of services (no such file was analysed in 2015).

Development in the number of application files submitted to the Consultative Commission

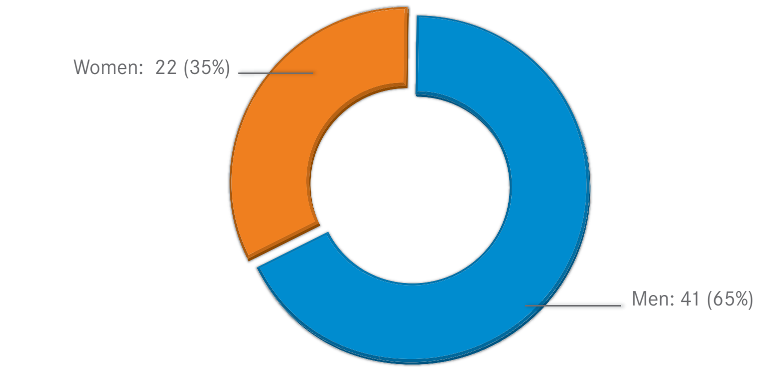


	Trainees	Foreign candidates	Exemption 7 / 15 years	Total
2014	24	18	29	71
2015	18	18	27	63

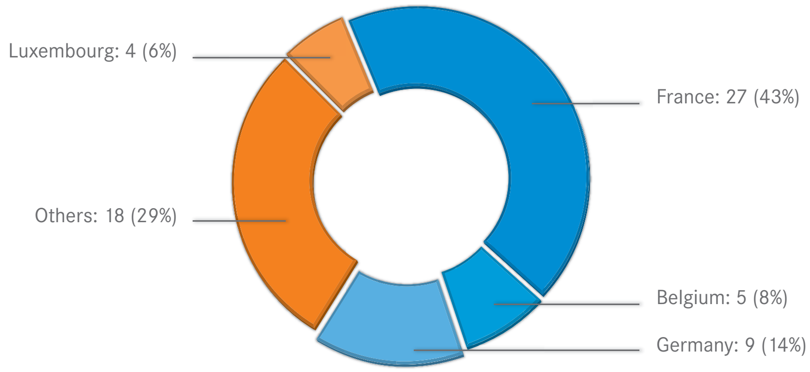
Breakdown of candidates per firm



Breakdown of candidates per gender



Breakdown of candidates per nationality



4.1.2. Examination of professional competence 2015

The CSSF administrates the examination of professional competence in accordance with Articles 5 and 6 of the Grand-ducal Regulation of 9 July 2013 determining the requirements for the professional qualification of *réviseurs d'entreprises*.

In this context, the examination jury communicated the following results with respect to 54 candidates registered for the 2015 examination of professional competence to the CSSF:

- Ordinary session: 54 candidates took the written exam, 27 of whom have been admitted to the oral exam. In total, 17 candidates passed the exam and 10 failed partially (possibility to take the extraordinary session).
- Extraordinary session: 10 candidates took the written exam, seven of whom were admitted to the oral exam. In total, two passed the exam and two failed completely.

Thus, all sessions included, 19 candidates passed the examination of professional competence in 2015 successfully.

Having passed this examination, candidates may request the CSSF to be granted the title of *réviseur d'entreprises*.

The graduation ceremony was held on 2 March 2016 in the presence of the Minister of Finance Mr Pierre Gramegna.

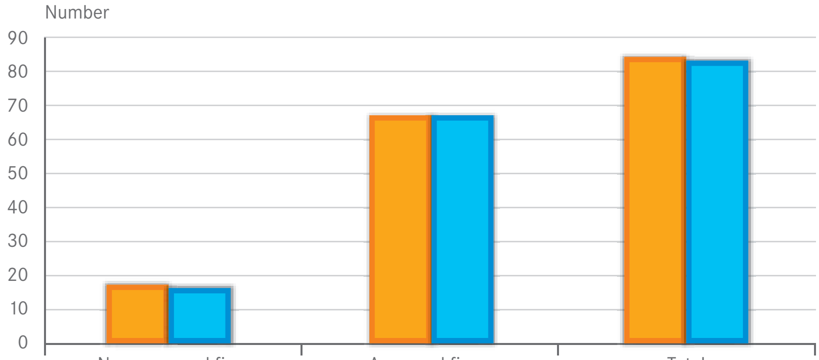
4.2. Public register

The public register of *réviseurs d'entreprises agréés, cabinets de révision agréés* and third-country auditors and audit entities is available on the CSSF's website under the heading "Supervision", section "Audit profession", sub-section "Public register".

4.2.1. National population as at 31 December 2015

• Development in the number of *cabinets de révision* and *cabinets de révision agréés*

The total number of *cabinets de révision* and *cabinets de révision agréés* amounted to 82 as at 31 December 2015, against 83 as at 31 December 2014.



	Non approved firms	Approved firms	Total
2014	17	66	83
2015	16	66	82

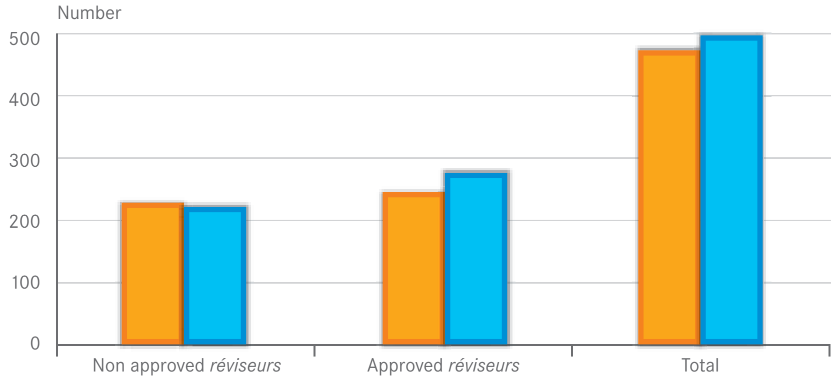
The following firms were approved in 2015:

- REVYS S.à r.l.
- C-CLERC S.A.
- MAYFAIR AUDIT S.à r.l.
- FIDUCIAIRE TG EXPERT S.A.

In 2015, four firms gave up their approval, three of which have also abandoned the title of *cabinet de révision*.

• Development in the number of *réviseurs d'entreprises* and *réviseurs d'entreprises agréés*

The total number of *réviseurs d'entreprises* and *réviseurs d'entreprises agréés* amounted to 497 as at 31 December 2015, against 473 as at 31 December 2014, which is a 5.1% increase.

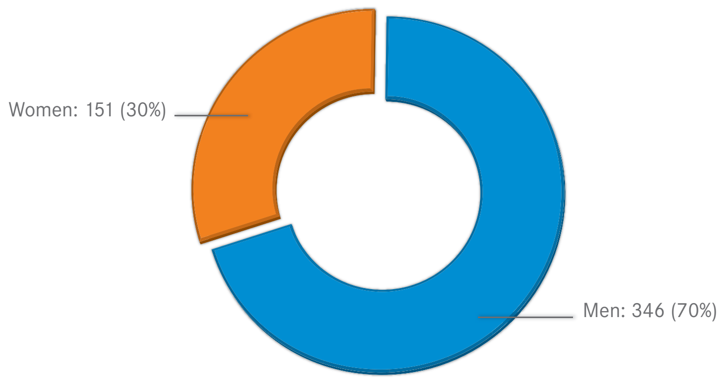


	Non approved *réviseurs*	Approved *réviseurs*	Total
2014	228	245	473
2015	221	276	497

In 2015, the CSSF granted the title of *réviseur d'entreprises* to 38 persons and approved 41 *réviseurs d'entreprises*.

During the year under review, 10 *réviseurs d'entreprises* gave up their approval, including two that also abandoned their title.

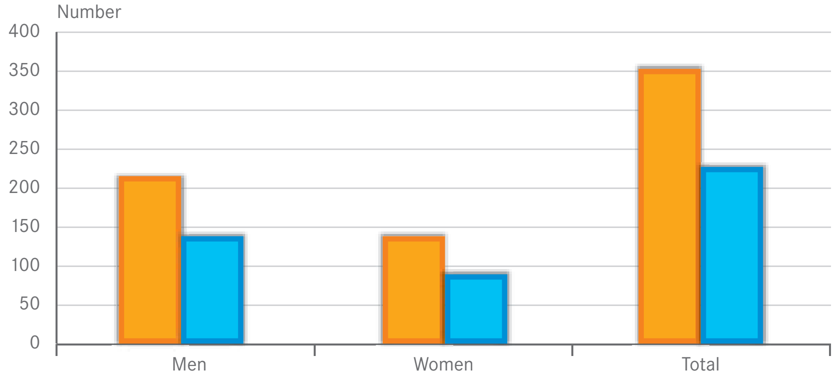
• Breakdown of *réviseurs* according to gender



The average age of *réviseurs* is 41.0 years for women and 45.4 years for men.

• Development in the number of trainee *réviseurs d'entreprises*

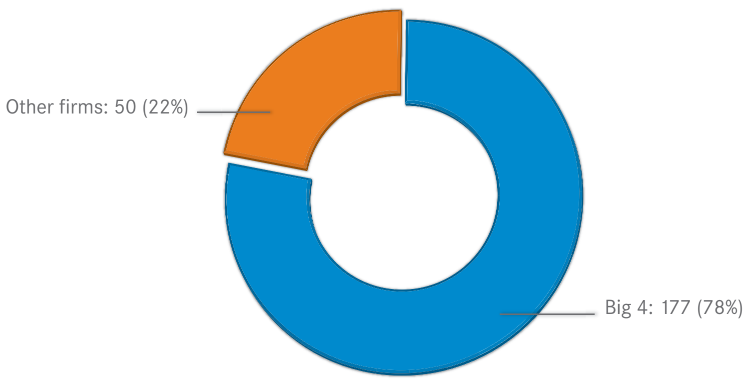
The total number of trainee *réviseurs d'entreprises* amounted to 227 as at 31 December 2015, against 353 as at 31 December 2014, which represents a 35.7% decrease.



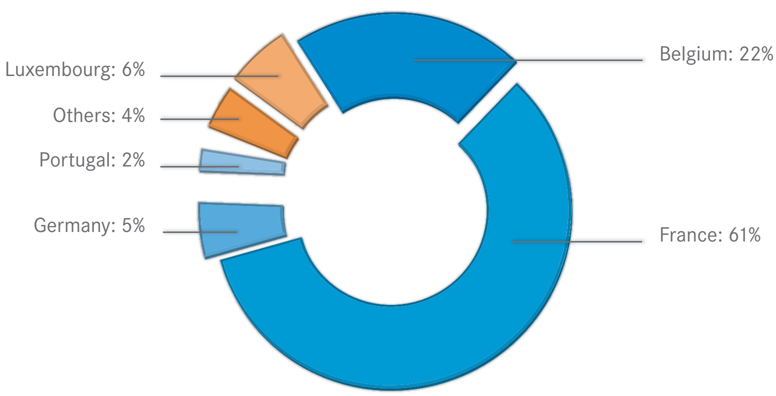
	Men	Women	Total
2014	215	138	353
2015	138	89	227

The average age of trainees is 31.8 years for women and 31.3 years for men.

Breakdown of trainees per firm



Breakdown of trainees per nationality



4.2.2. Third-country auditors and audit firms

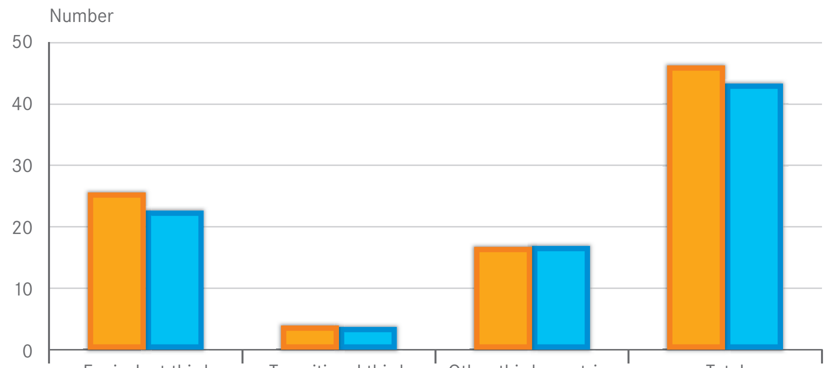
The registration procedure for third-country auditors and audit firms that provide an auditor's report on the annual or consolidated accounts of a company incorporated outside EU Member States, whose securities are admitted to trading on the regulated market of the Luxembourg Stock Exchange ("third-country auditors") continued in 2015.

The CSSF gave a positive response to two new applications for registration originating from:

- an audit firm located in a third country, whose systems for public oversight, quality assurance, investigation and penalty are not considered as equivalent to the systems in place in the EU but which benefits from a transitional regime granted by the European Commission in its Decision 2013/288/EU ("transitional third countries"), and
- an audit firm located in a third country, whose systems for public oversight, quality assurance, investigation and penalty are not considered as equivalent to the systems in place in the EU and which, in addition, does not benefit from a transitional regime granted by the European Commission in its Decision 2013/288/EU ("other third countries").

Moreover, except for five third-country auditors whose activities do no longer fall within the scope of Directive 2006/43/EC, all the third-country auditors previously registered renewed their registration.

Breakdown of registered third-country auditors



	Equivalent third countries	Transitional third countries	Other third countries	Total
2014	26	4	17	47
2015	23	4	17	44

The public register including all third-country auditors is available on the CSSF's website under the heading "Supervision", section "Audit profession", sub-section "Public register".

5. COOPERATION AGREEMENTS

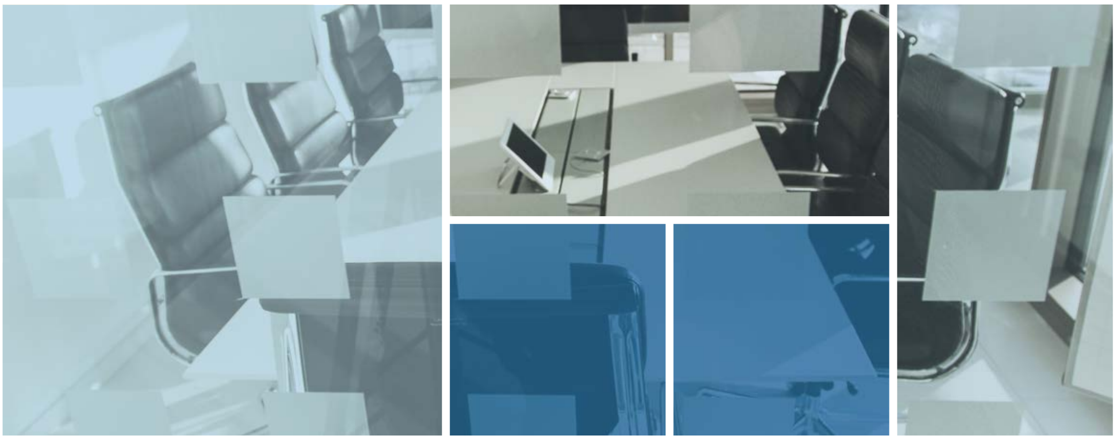
On 17 September 2015, the CSSF agreed on a statement of protocol with its US counterpart, the Public Company Accounting Oversight Board (PCAOB). The signature of this protocol follows on from the decisions of 11 June 2013 by the European Commission considering the adequacy of the competent authorities of the United States of America as well as the equivalence of the public oversight, quality assurance, investigation and penalty system for auditors and audit entities of the United States of America.

In order to reach a target of mutual recognition of the two countries' oversight systems, this agreement also provides for joint controls in Luxembourg and the United States of America for audit firms subject to the oversight of both authorities. The statement of protocol is accompanied by a specific agreement which guarantees compliance with national regulations on the protection of personal data.

This protocol complements the list of cooperation agreements already concluded by the CSSF with its Japanese and Swiss counterparts. The agreements are available on the CSSF's website under the heading "Supervision", section "Audit profession", sub-section "Bilateral agreements".

CHAPTER XIV

INSTRUMENTS OF SUPERVISION



1. On-site inspections
2. Sanctions and means of administrative police

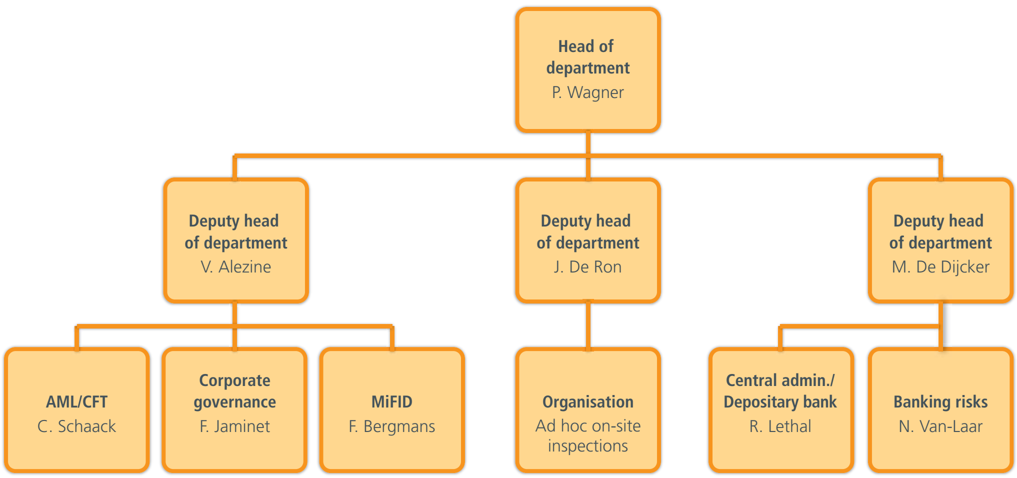
1. ON-SITE INSPECTIONS

The "On-site inspection" department is in charge of coordinating all on-site inspections carried out by the CSSF with regard to banks[1], payment institutions, electronic money institutions, UCIs and SICARs as well as their management companies, investment firms, specialised PFS, support PFS, pension funds, securitisation undertakings and financial market participants. The department's staff amounts to 37 full-time equivalents on 31 March 2016.

Besides on-site inspections in the areas of "Anti-money laundering and counter-terrorist financing", "Corporate governance", "Depositary bank function", "Credit risk" and "MiFID", the responsibilities of the "On-site inspection" department were extended during the year. New tasks were assigned to the department with respect to the "Central administration function" in investment funds as well as to "Operational risk", "Interest rate risk" and "Market risk". Therefore, the "Asset Quality Review" team was renamed "Banking risks" in 2015.

The "On-site inspection" department also coordinates on-site inspections of significant Luxembourg banks with the "Centralised On-site Inspection" department of the ECB and its agents participate in on-site inspections of these banks in the European context. As part of the mixed teams implemented by the ECB, the "On-site inspection" department also participated in on-site inspections of significant European banks abroad.

Organisation chart of the "On-site inspection" department



The teams in charge of on-site inspections[2] are set up according to the nature, scale and scope of the missions and include agents from the supervisory departments as well as from the "On-site inspection" department.

After each on-site inspection, the team in charge of the mission draws up an internal report indicating any flaws and weaknesses identified during the mission. Generally, all on-site inspections are followed by an observation letter that is sent to the inspected professional. In the event of more serious flaws and weaknesses, the CSSF analyses whether an injunction procedure or a non-litigious administrative procedure is required in order to impose an administrative sanction pursuant to Article 63 of the law of 5 April 1993 on the financial sector.

In 2015, the CSSF carried out a total of 139 on-site visits and inspections that concerned, in particular, the topics presented below.

On-site inspections carried out by the UCI departments are described under point 5.4. of Chapter VIII "Supervision of UCIs".

[1] This includes less significant banks which are not subject to the Single Supervisory Mechanism (SSM) as well as "AML/CFT", "MiFID", "Depositary bank" and "Central administration function" on-site inspections of significant and less significant banks as these topics are not directly covered by the SSM.

[2] With the exception of the missions performed at significant banks which are organised according to the methodology of the ECB.

1.1. Introductory visits

Introductory visits are aimed at professionals that recently received their authorisation and, where appropriate, to existing players that received an authorisation to carry out a new activity in addition to those for which they already held an existing authorisation. Usually carried out within the first six months following the professional's authorisation, the purpose of these missions is to verify that the contemplated business plan is being followed and that the systems and infrastructures are correctly implemented.

During the year under review, the CSSF undertook 25 introductory visits of new players of the financial centre.

Breakdown of the introductory visits by type of entity

Type of inspected entity	Introductory visits
Banks	4
Payment institutions	2
Investment firms	8
Specialised PFS	9
Support PFS	2
Total	**25**

In some cases, the introductory visits revealed weaknesses in the organisation of the day-to-day management, in the consistency of the entities' activities with the scope of their authorisation or as regards their internal procedures and documents.

1.2. Ad hoc control missions

Ad hoc control missions are on-site inspections intended to investigate a specific or even worrying situation or a specific problem related to the professional. Often, this particular situation of the professional has already been observed in the context of the off-site prudential supervision. Such missions may either be planned in advance or occur unexpectedly. The nature and scale of ad hoc missions may vary significantly and consequently determine the composition of the on-site teams.

In 2015, the CSSF carried out 17 ad hoc missions. These missions were performed not only by the "On-site inspection" department but also by the supervisory departments. Some missions were performed following a whistleblowing procedure.

Breakdown of the ad hoc control missions by type of entity

Type of inspected entity	Ad hoc on-site inspections
Banks	8
Investment firms	3
Electronic money institutions	1
Specialised PFS	1
UCIs	1
Management companies	3
Total	**17**

The ad hoc missions performed at banks concerned different topics such as, for example, depositary activity, credit activity, credit card activity or specific aspects like leasing. Three missions were performed under the lead of the "On-site inspection" department, one under the lead of the "Supervision of banks" department, one under the lead of the "Information systems and supervision of support PFS" department and three under the lead of a foreign supervisory authority.

The three ad hoc missions performed at investment firms concerned issues regarding internal governance and business operation.

The ad hoc mission performed at one electronic money institution concerned certain irregularities observed during the year under review.

The purpose of the mission performed at one specialised PFS was to assess the quality of the implemented governance arrangements.

The ad hoc missions related to UCI activities and performed at the management companies concerned the general organisation and governance, the central administration, the administrative and accounting organisation as well as more specific aspects such as risk management.

1.3. "Interest rate risk" on-site inspections

"Interest rate risk" or "Interest rate risk in the banking book (IRRBB)" on-site inspections aim to assess the interest rate risk arising from non-trading activities and the stress test results.

In 2015, the CSSF carried out IRRBB on-site inspections at four banks, including one significant bank for which the inspection was based on the ECB's methodology.

The following most significant flaws, in terms of frequency or seriousness, were identified during the "Interest rate risk" on-site inspections of 2015:

- no procedure for exhaustive identification, measurement and limitation of interest rate risks;
- insufficient data in the ICAAP report;
- incomplete definition of individual stress test scenarios and insufficient monitoring of these scenarios;
- poor application of the regulatory stress test scenario;
- flaws in the completeness, content and frequency of the internal reports;
- no regular reconciliation between the data taken into account for interest rate risk and accounting data;
- insufficient exhaustiveness and adequacy of the limits;
- insufficient independence and no access to information by the risk control function;
- little detail in the information published under the Pillar 3 regulatory framework;
- insufficient revision and back testing of the tools and parameters used in the measurement of the interest rate risk.

In two cases, the CSSF decided to initiate an injunction procedure pursuant to Article 59 of the law of 5 April 1993 on the financial sector or a non-litigious administrative procedure in order to impose an administrative sanction.

1.4. "Operational risk" on-site inspections

"Operational risk" on-site inspections, excluding internal models, started in 2015 with the objective of verifying the manner in which operational risk is identified, controlled, managed and measured.

In 2015, the CSSF carried out such missions at five banks of the financial centre, including two significant banks. The missions in the significant banks were carried out according to the ECB's methodology. One of these missions took place in several European countries with a team of inspectors from different national authorities. This mission concerned the management of operational, liquidity and credit risks. The other mission concerned risk management related to information systems with a particular attention to IT projects.

The following most significant flaws, in terms of frequency or seriousness, were identified during the "Operational risk" on-site inspections of 2015:

- failures in the process for the collection and analysis of operational incidents;

- insufficient control and follow-up of the outsourced services or activities;
- scenarios for stress tests needing improvement;
- poor application of the procedure for new products/new activities;
- incomplete content of the established internal reports;
- no detailed operational risk framework;
- delays in the implementation and follow-up of action plans aimed at addressing the identified operational incidents;
- insufficient control of IT changes;
- excessive use and insufficient control of privileged access to IT systems;
- excessively lenient internal audit assessment regarding the efficiency of the processes and risks, exacerbated by a premature closing of the audit issues;
- insufficient control by the local management of the IT organisation shared with the group.

1.5. "Validation of credit risk management and operational risk management models" on-site inspections

"Validation of credit risk management and operational risk management models" on-site inspections were carried out in order to verify the models of internal rating systems (IRB models). In 2015, the CSSF carried out 10 on-site inspections concerning the IRB models, including five in the ECB's SSM framework.

The CSSF also performed validation checks regarding operational risk covering specific aspects of the risk management of credit institutions that apply the advanced measurement approach (AMA). In 2015, the CSSF performed one on-site inspection of this kind concerning the advanced approach.

1.6. "Credits" on-site inspections

The purpose of "Credits" on-site inspections is to verify the sound and prudent credit management within banks of the financial centre. The processes relating to the granting of credits, the management of defaulted credits, as well as the acceptance and monitoring of guarantees are analysed on the basis of samples. The different internal reports relating to these processes are also reviewed during these missions.

Following the entry into force of Regulation (EU) No 575/2013 on the prudential requirements applicable to credit institutions and CSSF Regulation N° 15-02 relating to the supervisory review and evaluation process that applies to CRR institutions, the CSSF ensures that the principles relating to credits are met. The CSSF also focusses on the principles relating to credit risk set out in Part III of Chapter 3 of Circular CSSF 12/552 and verifies in practice compliance with these principles.

In 2015, the CSSF carried out "Credits" missions in 12 banks, including five missions in significant banks. These missions, which concerned diverse subjects such as mortgages, lombard loans and corporate banking loans, provided a better understanding of the credit risk incurred by the professionals.

The missions at the significant banks were carried out according to the ECB's methodology. Furthermore, two of these missions took place in several European countries with a team of inspectors from different national authorities.

The following most significant flaws, in terms of frequency or seriousness, were identified during the "Credits" on-site missions of 2015:

- insufficient formalisation and monitoring of credit risk in general;
- no definition or adapted process for the identification of credits in default and forborne credits;
- absence or inadequacy of the internal limits related to the credit activity;
- poor documentation of the credit files and, in some cases, no detailed critical analysis;

- poor quality of the information available in the internal systems;
- incomplete concentration risk management;
- inappropriate classification method for credit risk;
- non-compliance with some governance principles with respect to credit approval processes as well as within the credit approval committees;
- poor application of the procedure for new products/new activities;
- irregular update of the procedures manual;
- inappropriate resources within the risk control function;
- no critical review of the report received from an external assessor.

In 2015, the CSSF decided in two cases (one of which related to an on-site inspection carried out in 2014) to initiate an injunction procedure pursuant to Article 59 of the law of 5 April 1993 on the financial sector or a non-litigious administrative procedure in order to impose an administrative sanction pursuant to Article 63 of the above-mentioned law.

Finally, it is worth mentioning that the methodology for credit risk developed by the ECB is being revised and will be completed in 2016 with new targets for the on-site inspections at significant banks.

1.7. "Anti-money laundering and counter-terrorist financing" (AML/CFT) on-site inspections

"AML/CFT" on-site inspections are carried out at all the different types of entities of the financial centre in order to assess that the quality of the AML/CFT framework is in line with the legal and regulatory requirements. Inspections cover both private banking (portfolio management, domiciliation, etc.) and UCI activities.

In 2015, the CSSF carried out 27 "AML/CFT" on-site missions[3], broken down by type of entity as set out below. One of these on-site missions also included an ad hoc section which is included among the ad hoc missions described under point 1.2. above.

Breakdown of the "AML/CFT" control missions by type of entity

Type of inspected entity	AML/CFT on-site inspections
Banks	9
Investment firms	2
Specialised PFS	12
Management companies	3
Payment institutions	1
Total	**27**

The following most significant flaws, in terms of frequency or seriousness, were identified during the "AML/CFT" on-site missions of 2015:

- insufficient documentation and/or difficulties in obtaining information relating to the origin of the funds and the nature and purpose of the business relationship, insufficient documentation on the identity of the legal persons and beneficial owners, no explicit declaration of customers that they act for their own account or, where appropriate, for the account of third parties;
- no drafting of risk analyses on the AML/CFT activities by the professionals pursuant to Article 3(3) of the law of 12 November 2004 on the fight against money laundering and terrorist financing and Article 4 of CSSF Regulation N° 12-02 of 14 December 2012 on AML/CFT;
- insufficient formalisation of the refusals to enter into a business relationship;
- non-exhaustiveness of the customer database used for name matching controls against the official lists and lists of politically exposed persons and for detecting business relationships linked to a specific country (with

[3] Including one follow-up mission carried out following a previous "AML/CFT" mission.

respect to the name of the parties or other information such as the country of residence of all the parties (holders, representatives and beneficial owners));

- no categorisation of customers/investors according to their risk of money laundering or terrorist financing;
- the controls aimed at detecting the politically exposed persons when entering into a business relationship do not cover all the parties (holders, representatives and beneficial owners) and no review whether a customer, beneficial owner or representative has become a politically exposed person during the business relationship;
- no implementation of enhanced due diligence measures to customers who have their place of residence in a country which does not apply or insufficiently applies AML/CFT measures;
- insufficient involvement of the person in charge of AML/CFT controls in the monitoring of transactions;
- insufficient resources for the AML/CFT internal control mechanisms;
- no drafting of the annual summary report by the person in charge of AML/CFT controls regarding his activities and functioning.

In 2015, the CSSF decided in 12 cases[4] to initiate an injunction procedure pursuant to Article 59 of the law of 5 April 1993 on the financial sector or a non-litigious administrative procedure in order to impose an administrative sanction pursuant to Article 63 of the above-mentioned law. This procedure led the CSSF to impose an administrative fine in three cases and to give a reprimand in one case.

In four cases, the CSSF transmitted a suspicious transaction report pursuant to Article 23(2) and (3) of the Code of Criminal Procedure or notified the Financial Intelligence Unit pursuant to Article 9-1 of the law of 12 November 2004 on the fight against money laundering and terrorist financing regarding the cooperation between competent authorities.

1.8. "Corporate governance" on-site inspections

"Corporate governance" on-site inspections aim to analyse the quality of the governance arrangements set up by the professionals pursuant to the regulatory requirements. An on-site inspection may target the governance of a Luxembourg entity, the "group head" function exercised by a Luxembourg entity, the organisation and effectiveness of the internal control functions of an entity as well as the implementation of a new governance model as a result of the reorganisation of a banking group.

In 2015, the CSSF carried out 12 "Corporate governance" on-site inspections[5] in banks, investment firms, specialised PFS and management companies subject to Chapter 15 of the law of 17 December 2010.

Breakdown of the "Corporate governance" control missions by type of entity

Type of inspected entity	"Corporate governance" on-site inspections
Banks	7
Investment firms	2
Specialised PFS	2
Management companies	1
Total	**12**

The following most significant flaws, in terms of frequency or seriousness, were identified during the internal governance on-site missions of 2015:

- the composition of the Board of Directors and specialised committees was not always in line with the provisions of Circular CSSF 12/552 as amended by Circulars CSSF 13/563 and CSSF 14/597 on central administration, internal governance and risk management (e.g. the majority of the members of the Board of Directors were executives, grouping of mandates of chair of the Board of Directors and authorised manager or of specialised committees);

[4] Two on-site inspections dating from 2013 and 10 on-site inspections dating from 2014.

[5] Among which was one follow-up mission.

- no thorough analysis aimed at verifying that the other mandates held by the directors do not cause any conflict of interest or unavailability;
- the results of the work carried out by the specialised committees were not systematically presented to the Board of Directors;
- in case of management committees that are larger than the authorised management, the members of the authorised management present in the committees did not systematically have the right of veto. Moreover, the authorised managers not participating in these committees were not always informed about the decisions taken in these committees;
- the principle of segregation of duties, in particular between the members of the authorised management, in order to avoid any conflicts of interest, was not always observed;
- with respect to the implementation of recommendations issued by the internal control function, the external *réviseur* (auditor) or the CSSF, the procedure governing the responsibility of the authorised management in this matter was incomplete or even non-existent although an efficient follow-up was generally carried out by the authorised management;
- the multiannual audit plans did not always cover all the activities and areas within a reasonable time frame. Furthermore, they did not always include the required information so as to assess their feasibility and the adequacy of the resources required for their realisation;
- for entities exercising a "group head" function, the visits of the persons responsible for the internal control of the "group head" entity to the persons responsible for the local internal control, in order to assess the quality of work carried out by the latter, were not always sufficient. Moreover, the hierarchical link between the internal control functions of the branches and the internal control functions of the "group head" entity was sometimes missing;
- as far as the compliance function is concerned, an absence of coherence between the risk assessment, the control plan and the controls carried out was noted several times.

In 2015, the CSSF decided for three on-site inspections[6] to initiate an injunction procedure pursuant to Article 59 of the law of 5 April 1993 on the financial sector or a non-litigious administrative procedure in order to impose an administrative sanction pursuant to Article 63 of the above-mentioned law.

1.9. "MiFID" on-site inspections

The purpose of "MiFID" on-site inspections is to assess that the implemented MiFID framework is in line with the legal and regulatory requirements. In 2015, inspections concerned the service provision and the exercise of investment activities by credit institutions, investment firms and management companies subject to Chapter 15 of the law of 17 December 2010.

In 2015, the CSSF carried out 12 "MiFID" on-site missions, broken down by type of entity as set out below. The "MiFID" team also carried out an ad hoc mission which is also included in the ad hoc missions mentioned in point 1.2. above.

Breakdown of the "MiFID" control missions by type of entity

Type of inspected entity	"MiFID" on-site inspections
Banks	6
Investment firms	5
Management companies	1
Total	**12**

The following most significant flaws, in terms of frequency or seriousness, were identified during the "MiFID" on-site missions of 2015:

[6] Including two controls dating from 2014.

- insufficient documentation and/or difficulties in obtaining "MiFID" information on customers;
- inadequate investment strategies with respect to "MiFID" information on customers;
- non-compliance with the investment strategies agreed with customers;
- non-registration of the result of the appropriateness or suitability assessment of the proposed products or services;
- no register of possible conflicts of interest and incomplete identification of possible conflicts of interest (in particular in relation to the significant concentration of financial instruments of the entity and its connected entities in the customer portfolios);
- no formalisation of the analysis evidencing the compatibility of the commissions or non-monetary benefits paid or received by the entities within the MiFID framework and insufficient information provided to customers as regards these commissions or benefits;
- shortcomings in the execution and selection policies of the entities in charge of the execution and, in particular, no reviews of these policies.

In 2015, the CSSF decided for four on-site inspections[7] to initiate an injunction procedure within the meaning of Article 59 of the law of 5 April 1993 on the financial sector or a non-litigious administrative procedure in order to impose an administrative sanction pursuant to Article 63 of the above-mentioned law and/or in order to begin with a procedure requesting the withdrawal of the authorisation granted by the Minister of Finance based on Article 23(2) and (4) of the above-mentioned law.

In two cases, the CSSF made a suspicious transaction report pursuant to Article 23(2) and (3) of the Code of Criminal Procedure.

1.10. "Depositary bank" on-site inspections

During 2015, the CSSF carried out 14 on-site inspections regarding the "Depositary bank" function.

Three missions were aimed at understanding the general organisation of the activities exercised by the relevant depositary banks. During these inspections, the CSSF reviewed, in particular, the process of acceptance of new assignments as depositary bank, the procedures in place to ensure custody of the different types of assets, the follow-up of the delegated activities as well as the specific supervisory and monitoring duties.

Ten missions exclusively concerned the safekeeping function. During these inspections, the CSSF thoroughly analysed the selection and supervision process of the sub-custodians and third-party custodians involved in the custody of the different types of assets and reviewed a sample of files in that respect. It also carried out tests in order to verify how depositary banks ensure that they are, at any time, aware of how assets of UCIs are invested and where and how these assets are available.

One inspection concerned specific supervisory missions that a depositary bank must fulfil.

During these inspections, the CSSF took into account the requirements under the AIFMD as well as the future requirements under Circular CSSF 14/587 on the UCITS depositaries which entered into force on 18 March 2016.

In the context of the on-site inspections regarding the "Depositary bank" function, the following most significant flaws, in terms of frequency or seriousness, were identified in 2015:

- shortcomings with respect to the selection process and follow-up of the network of sub-custodians/third-party custodians as well as other entities involved in the custody of assets in most of the inspected banks;
- insufficient supervision of the delegated activities other than the custody activities;
- inappropriate processes concerning the specific monitoring missions applicable to a depositary;
- no updates of the contracts with the sub-custodians over a longer period of time, which revealed different shortcomings regarding the applicable regulation;

[7] Among which two on-site inspections dating from 2014.

- risks of conflicts of interest between the depositary bank function and the management;
- shortcomings in the implementation of the segregation requirements.

In four cases (among which three are related to on-site inspections carried out in 2014), the CSSF decided to initiate an injunction procedure pursuant to Article 59 of the law of 5 April 1993 on the financial sector or a non-litigious administrative procedure in order to impose an administrative sanction pursuant to Article 63 of the above-mentioned law.

The CSSF also paid three introductory visits to specialised PFS authorised as professional depositaries of assets other than financial instruments.

Moreover, the CSSF participated in a European working group of the ECB which focussed on the implementation of the methodology for on-site inspections at significant depositary banks.

1.11. "UCI central administration" on-site inspections

At the beginning of 2015, two on-site inspections concerning the "UCI central administration function" were carried out at a bank and a professional of the financial sector by the "Prudential supervision and risk management" division of the UCI departments. Following the new responsibilities regarding "UCI central administration" on-site inspections given to the "On-site inspection" department in 2015, the latter carried out one on-site inspection in this capacity at a bank.

These inspections will be enhanced in 2016 and will be carried out by the "On-site inspection" department at banks and at professionals of the financial sector.

1.12. "Support PFS" on-site inspections

The "Support PFS" on-site inspections are directly performed by the agents in charge of the supervision of support PFS due to the specific aspects of these types of PFS. In particular, these controls are performed following the identification of significant shortcomings with respect to the regulatory requirements and for which no satisfactory answer was provided despite repeated requests. They may also result from a denunciation by a third party which was brought to the attention of the CSSF (whistleblowing).

In 2015, the CSSF was informed of a specific situation which is still under investigation.

1.13. "Market abuse" on-site inspections

In 2015, the CSSF carried out one on-site inspection in the context of an investigation regarding market abuse at a natural person not subject to prudential supervision by the CSSF. For further information, please refer to point 7. of Chapter XI "Supervision of securities markets".

2. SANCTIONS AND MEANS OF ADMINISTRATIVE POLICE

2.1. Legal framework

In order to ensure that the persons subject to its supervision comply with the laws and regulations relating to the financial sector, the CSSF can use powers and intervention measures, some of which for prevention or administrative police purposes and others for repression purposes (administrative sanctions). The CSSF also has powers and means of intervention to obtain a court order for the suspension of payments or even for the judicial winding-up of the entities under its supervision. These powers come with great investigation and enquiry powers. The CSSF exercises its powers in accordance with the legal procedures which comply with the general principles of the law. The CSSF's decisions may be subject to a right to apply for annulment or reversal with the *Tribunal administratif* (Administrative Tribunal).

Many powers of the CSSF are laid down in the different sectoral legal instruments relating to the financial sector, of which the CSSF ensures the application and execution. In each specific case and before initiating any procedure, the CSSF first checks the scope of application of the relevant legal instruments and acts according to the principle of proportionality.

In short, the different sectoral laws confer on the CSSF the power of injunction with which the CSSF orders the institution to remedy a situation. In addition, the CSSF has the power of suspension of persons, voting rights, activities or an activity sector of the institution, or even of authorisations or professional titles. The CSSF may also deem that a person no longer complies with the professional repute condition, which results in the fact that the person cannot exercise a function subject to this condition for a specific period of time.

Besides these measures, the CSSF may also request the judicial authorities to order the freezing or sequestration of assets. Also for prevention purposes, the CSSF may issue a call to order, periodic penalty payments or, more broadly, impose any measure aimed at enforcing compliance with the laws and regulations. The CSSF may also withdraw an entity from the official list (or propose the withdrawal of an entity from the official list to the Minister of Finance, depending on the applicable sectoral law), where the conditions for being registered or for remaining on the official list of supervised entities are no longer met and consequently, the authorisation conditions are no longer fulfilled. The withdrawal from the list and the authorisation withdrawal in general imply the suspension of payments and the judicial liquidation of the entity concerned. In its capacity as national resolution authority, the CSSF exercises, via the Resolution Board, the powers and responsibilities entrusted to it by the BRRD, as transposed into Luxembourg law.

As far as the repressive aspect is concerned, the CSSF has the power to impose administrative sanctions, such as a reprimand, a warning or administrative fines. Furthermore, where the CSSF is aware of facts which are likely to constitute crimes or offences (provided for in the Penal Code, specific laws or sectoral laws) or where the CSSF suspects acts of money laundering or terrorist financing, it informs the State Prosecutor who will assess if a public prosecution must be initiated in order to impose criminal sanctions by the judicial Courts and Tribunals.

With the implementation of the Single Supervisory Mechanism, the ECB has also intervention and sanction powers which target institutions for which it is competent, while the CSSF remains competent for certain institutions included in the Single Supervisory Mechanism either upon the ECBs request or automatically, as the case may be.

2.2. Decisions taken in 2015

In 2015, the CSSF took the following decisions with respect to sanctions and administrative police. It is noteworthy that the total amount of administrative fines imposed in 2015 amounted to EUR 1,335,000 against EUR 722,250 in 2014.

2.2.1. Credit institutions

In accordance with Article 63 of the law of 5 April 1993 on the financial sector, in 2015, the CSSF imposed an administrative fine amounting to EUR 30,000 on a credit institution due to shortcomings with respect to AML/CFT organisational requirements.

Moreover, in 2015, the CSSF filed two complaints with the State Prosecutor relating to illegal exercise of banking activities by unauthorised entities.

2.2.2. Investment firms

In 2015, the CSSF imposed nine administrative fines pursuant to Article 63 of the law of 5 April 1993 on the financial sector. Two fines were imposed on an investment firm due to repeated shortcomings with respect to the legal obligation to publish annual accounts (EUR 10,000) and due to non-compliance with certain AML/CFT professional obligations (EUR 15,000). One fine of EUR 15,000 was imposed on an investment firm because it made several changes in the shareholding without prior notification to the CSSF. Furthermore, considering the false declarations made during the procedure to obtain authorisation as investment firm, the CSSF requested the Minister of Finance to withdraw immediately the authorisation of this entity in accordance with Article 23(3) of the law of 5 April 1993 on the financial sector, despite the withdrawal request already made by the entity itself. Furthermore, the CSSF imposed an administrative fine of EUR 10,000 on an investment firm for not submitting the closing documents for the financial year 2014 within the time limits set. An administrative fine of EUR 10,000 was imposed on an investment firm due to non-compliance with the legal requirements concerning capital base and two other investment firms received fines amounting to EUR 10,000 and EUR 15,000 respectively due to repeated non-compliance with the legal requirements concerning the publication of annual accounts. Moreover, the CSSF imposed an administrative fine of EUR 250,000 on an investment firm, notably due to non-compliance with a significant number of requirements under Circular IML 93/102 and to non-compliance with Article 37-2 of the law of 5 April 1993 on the financial sector and with the provisions of Circular CSSF 07/307 on conflicts of interest. The shortcomings noted concerned also the organisational requirements applicable to investment firms.

All these fines were imposed on investment firms as legal persons.

The CSSF also imposed a fine of EUR 15,000 on a natural person in his capacity as managing director and majority shareholder of an investment firm. The irregularities and negligence observed concerned, in particular, the non-compliance with certain AML/CFT professional obligations.

The CSSF used its right of injunction in accordance with Article 59 of the law of 5 April 1993 on the financial sector on six occasions. Two injunctions concerned the non-compliance with the applicable AML/CFT laws and regulations. Two other injunctions concerned shortcomings identified and recommendations issued (a large number of these shortcomings/recommendations were recurrent) in the closing documents of the investment firms in question. Furthermore, the CSSF imposed an injunction on an investment firm due to continuous non-compliance with the capital adequacy ratio. In another case, the injunction concerned the qualifying holding of an investment firm.

During 2015, the CSSF temporarily withdrew the professional repute of a *dirigeant* (authorised manager) and indirect shareholder as well as of an indirect shareholder of an investment firm due to changes made in the shareholding without prior notification to the CSSF.

The CSSF did not exercise the right of suspension under Article 59 of the law of 5 April 1993 on the financial sector in 2015.

With respect to investment firms, the CSSF filed one report with the State Prosecutor pursuant to Article 23(2) of the Code of Criminal Procedure.

In 2015, the CSSF filed three complaints with the State Prosecutor regarding entities which provided investment services without authorisation.

2.2.3. Specialised PFS

Pursuant to the provisions of Article 63 of the law of 5 April 1993 on the financial sector, the CSSF imposed four administrative fines on specialised PFS as legal persons in 2015. Two of these fines, amounting to EUR 3,000 each, were imposed for failure to provide, within the deadlines set, the closing documents relating to the financial year 2014. Another fine, amounting to EUR 5,000, was imposed due to the nomination of a new director without prior approval of the CSSF. A fourth fine of EUR 9,000 concerned the non-compliance with the AML/CFT professional obligations.

Pursuant to the above-mentioned Article 63, the CSSF also imposed two administrative fines of EUR 3,000 each on two *dirigeants* (managers) of a specialised PFS for breaching Article 1 of the law of 31 May 1999 governing the domiciliation of companies and, in particular, for failing to enter into written domiciliation agreements.

During the scrutiny of an application file, the CSSF decided that the conditions of professional repute were not fulfilled by two persons subject to authorisation.

The CSSF used its right of injunction in accordance with Article 59 of the law of 5 April 1993 on the financial sector on three occasions. One injunction concerned the regularisation of the recommendations regarding AML/CFT provisions laid down in the audit report of the *réviseur d'entreprises agréé* (approved statutory auditor) and of the internal auditor. Another injunction concerned the dispatch, within the time limits set, of the audit report of the external *réviseur* drawn up in accordance with CSSF Regulation N° 12-02. In another case, the purpose of the injunction was the regularisation, within a specific time frame, of the transfer of the registered office of companies, which entered into a domiciliation agreement with a PFS at the same address as the registered office of the latter.

The CSSF also filed two complaints with the State Prosecutor in accordance with the provisions of Article 23(2) and (3) of the Code of Criminal Procedure and there were two instances of information exchange between competent authorities pursuant to Article 9-1 of the law of 12 November 2004 on AML/CFT.

2.2.4. Support PFS

In 2015, pursuant to Article 63 of the law of 5 April 1993 on the financial sector, the CSSF imposed an administrative fine of EUR 25,000 on a support PFS for non-compliance with the provisions of Articles 53 and 59 of the law of 19 December 2002 on the trade and companies register and the accounting practices and annual accounts of undertakings. This company distributed dividends although the costs of research and development were not yet entirely written off and the amount of distributable reserves and profit or loss brought forward were not at least equal to that of the expenses not written off.

2.2.5. Undertakings for collective investment

In accordance with Article 148(1) of the law of 17 December 2010 relating to undertakings for collective investment, the CSSF imposed administrative fines of EUR 4,000 each on two *dirigeants* (directors) of UCIs for filing an incomplete declaration of honour and on the *dirigeants* of a UCI for the transmission of incomplete information to the CSSF.

In accordance with Article 51(1) of the law of 13 February 2007 relating to specialised investment funds, the CSSF imposed administrative fines amounting to EUR 2,000 or EUR 4,000, as the case may be, on the *dirigeants* of 26 SIFs for non-filing of the management letter as well as on the *dirigeants* of 27 SIFs for non-filing of the annual financial report.

Moreover, in accordance with the above-mentioned Article 51(1), the CSSF imposed an administrative fine of EUR 4,000 on the *dirigeant* of a SIF for filing an incomplete declaration of honour.

During 2015, the CSSF decided to withdraw 14 SIFs from the official list for non-compliance with the legal provisions governing SIFs.

2.2.6. Management companies

During 2015, the CSSF decided to withdraw one management company subject to Chapter 16 of the law of 17 December 2010 relating to undertakings for collective investment from the official list due to non-compliance with the legal provisions governing management companies.

2.2.7. Investment companies in risk capital (SICARs)

In accordance with the provisions of Article 17(1) of the law of 15 June 2004 relating to the Investment company in risk capital (SICAR), the CSSF imposed administrative fines amounting to EUR 500 each on the *dirigeants* (directors) of 15 SICARs for non-filing of the management letter and on the *dirigeants* of 16 SICARs for non-filing of the annual financial report.

Moreover, in accordance with the above-mentioned Article 17(1), the CSSF imposed an administrative fine of EUR 500 on the *dirigeant* of one SICAR for filing an incomplete declaration of honour and on the *dirigeants* of two SICARS for the transmission of incomplete information to the CSSF.

2.2.8. Securities markets

The review of financial reports under the Transparency Law led the CSSF to issue nine administrative fines, mainly due to delays in the disclosure and filing of annual and half-yearly financial reports. The total amount of these administrative fines imposed in accordance with Article 25 of the Transparency Law was EUR 93,000. As regards the control of major holdings under the Transparency Law, the CSSF imposed an administrative fine of EUR 1,000 on an issuer for exceeding the legal period. For further information, please refer to point 4. of Chapter XI "Supervision of securities markets".

In 2015, some issuers failed to respond to the CSSF's requests for information which were sent to them in relation to the CSSF's right to examine whether the information referred to in the Transparency Law was drawn up in accordance with the relevant reporting framework, as laid down in Article 22(2)(h) of the Transparency Law. In this respect, administrative fines amounting to a total of EUR 225,000 were imposed. Moreover, in accordance with Article 22(2)(d) of the Transparency Law, the CSSF requested the suspension from trading on the regulated market of the securities issued by two issuers. This suspension was effective from 21 until 31 December 2015, date on which these issuers rectified the identified shortcomings.

2.2.9. Audit profession

On 26 June 2015, the CSSF imposed, in accordance with Article 67 of the law of 18 December 2009 concerning the audit profession (Audit Law), an administrative fine of EUR 10,000 on a *réviseur d'entreprises agréé* for breaching legal and regulatory provisions. This penalty was published in *Mémorial* B No 97 of 24 August 2015.

On 22 July 2015, the CSSF imposed, in accordance with Article 67 of the Audit Law, an administrative fine of EUR 25,000 on a *réviseur d'entreprises agréé* for breaching legal and regulatory provisions. This penalty was published in *Mémorial* B No 97 of 24 August 2015.

In accordance with Article 62 of the Audit Law, the CSSF ordered a *cabinet de révision agréé* (approved audit firm) to review the adequacy of its work programmes following inappropriate audit opinions.

On 18 November 2015, the CSSF ordered, in accordance with Article 67 of the Audit Law, the suspension of the approval, referred to in Article 5 of the above-mentioned law, of one *réviseur d'entreprises agréé* and the striking out of the inscription in the public register for a period of a year. This penalty was published in *Mémorial* B No 136 of 3 December 2015.

On 18 November 2015, the CSSF imposed, in accordance with Article 67 of the Audit Law, an administrative fine of EUR 75.000 on a *réviseur d'entreprises agréé* for breaching legal and regulatory provisions. This penalty was published in *Mémorial* B No 28 of 4 March 2016.

Agents hired in 2015 and 2016: Internal audit and Departments "On-site inspection", "Resolution", "Executive Board secretariat", "Innovation, payments, market infrastructures and governance" and "Accounting, auditing and transparency"

Left to right: Josiane NGA, Miguel PASCUAL VALLES, Axel PERIN, Laurence VAN ECKE, Elke ZEIMERS, Jil WEBER, Klaus SÖLLNER, Philippe PARYS

Absent: Anne PHILIPPE, Clément RENAC

CHAPTER XV

RESOLUTION

RESOLUTION

On 1 March 2015, the CSSF set up a "Resolution" department (RES department) in order to fulfil the tasks and obligations incumbent on the national resolution authority under Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms (BRRD), as well as under Regulation (EU) No 806/2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund. Seven agents work in the RES department as at 31 March 2016.

The law of 18 December 2015 on the failure of credit institutions and certain investment firms, which notably transposes the BRRD, designates the CSSF as the resolution authority in Luxembourg. The CSSF exercises the missions and powers assigned to it as resolution authority through the Resolution Board and the RES department performs the day-to-day tasks related to these missions. The Resolution Director, who chairs the Resolution Board, heads the RES department. The aforementioned law is explained in more detail in point 3.10. of Chapter XVIII "Banking and financial laws and regulations".

As the national resolution authority, the CSSF is notably competent, at individual and group level, for credit institutions and CRR investment firms for:

- resolution planning and assessing resolvability;
- removing impediments to resolvability;
- appointing a special administrator;
- ensuring a fair, prudent and realistic valuation of the assets and liabilities;
- adopting measures during early intervention;
- applying simplified obligations or waiving the obligation to draft a resolution plan;
- setting the level of minimum requirement for own funds and eligible liabilities;
- adopting resolution decisions and applying resolution tools in accordance with the relevant procedures and safeguards;
- writing-down or converting relevant capital instruments;
- establishing, managing or participating in resolution colleges in order to carry out the tasks assigned to these colleges and to ensure cooperation and coordination with third-country resolution authorities;
- executing the instructions issued by the Single Resolution Board (SRB).

The RES department represents the CSSF as resolution authority within international fora, including in particular the SRB and the EBA. The work of the SRB and the EBA in this area is described in detail in points 1.3.6. and 1.4. of Chapter II "The European dimension of the supervision in the financial sector".

In 2015, the CSSF was mandated by the SRB to draft transitional resolution plans for four significant banks. In this context, frequent meetings and exchanges of information took place with the representatives of the SRB, the department "Supervision of banks" and the relevant banks. A country visit of the SRB took place on 11 November 2015.

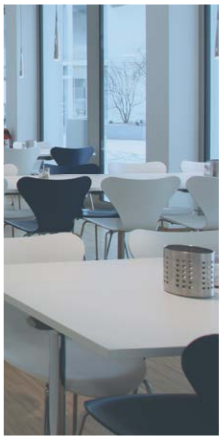
Furthermore, the RES department prepared and held initial teleconferences of resolution colleges relating to banks for which the CSSF is the group-level resolution authority.

As regards resolution, the CSSF published several circulars in 2015, including in particular Circular CSSF 15/610 on ad-hoc data collection within the context of the BRRD, Circular CSSF 15/626 regarding the information to be provided for the calculation of the 2016 contribution to the Single Resolution Fund and Circular CSSF 15/628 concerning the 2015 contribution to the Luxembourg Resolution Fund.

CHAPTER XVI

FINANCIAL CRIME





The year 2015 was marked by a large number of terrorist attacks, among which the tragic attacks in France in January and November 2015. The international community responded resolutely to this propagation of criminal activities by intensifying efforts to combat terrorism and its financing.

There is a straight link between terrorist financing and money laundering because the funds and resources/goods are often of illegal origin and are then used to finance terrorist acts.

Luxembourg continued its actions in relation to enhancement and improvement of the legal framework as evidenced by the initiatives mentioned below. First, it is important to point out the adoption of the law of 18 December 2015 which strengthens the legislative arsenal to fight against terrorist acts by including new offences in the Luxembourg Penal Code and Code of Criminal Procedure. This law reflects the will of the legislator to respond to terrorist threats, including, where applicable, national threats, by providing the competent judicial authorities with greater means to address them.

The CSSF's role in the fight against money laundering and financing of terrorism (AML/CFT) is based on the provisions of Article 2 of its organic law of 23 December 1998 and consists in ensuring compliance with professional obligations regarding AML/CFT, including compliance with international financial sanctions, by any person under its supervision and to ensure that the natural and legal persons subject to authorisation are fit and proper.

The following developments will present the CSSF's involvement in determining AML/CFT policies at national and international level over the year 2015. The operational part of the CSSF's activities with respect to AML/CFT supervision is further detailed in the chapters regarding supervision and in Chapter XIV "Instruments of supervision" of this annual report.

1. AMENDMENTS TO THE REGULATORY FRAMEWORK REGARDING THE FIGHT AGAINST MONEY LAUNDERING AND TERRORIST FINANCING

1.1. Amendments to the European framework on AML/CFT

1.1.1. Directive (EU) 2015/849 of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 and repealing Directive 2005/60/EC and Directive 2006/70/EC

Directive (EU) 2015/849, whose measures aim, in particular, at ensuring the integrity, stability and reputation of the financial sector, has to be transposed into national law by 26 June 2017 at the latest[1]. Until that date, this directive will be supplemented with different regulatory texts drawn up, notably, by the European Supervisory Authorities in accordance with the respective mandates provided for in this directive.

In addition to the development already mentioned in point 1.5. of Chapter XIV "Financial crime" of the CSSF Annual Report 2014, the topic of the implementation of a risk-based approach in case of higher or lower risk of money laundering and terrorist financing should be dealt with again here.

Indeed, as Directive (EU) 2015/849 no longer determines specific cases in which obliged entities may apply simplified customer due diligence (Article 15), the involvement of the obliged entities increased by requiring a more proactive management of risks to which they might be exposed. The Member States must determine these cases or the obliged entities may request authorisation from their Member State in order to apply simplified customer due diligence. Before implementing simplified customer due diligence, the obliged entity must always ensure that the business relationship or the transaction presents a lower level of risk. The Member States must ensure that the entities carry out sufficient monitoring "to enable the detection of any unusual or suspicious transactions". However, the directive still allows the Member States to establish a derogatory regime for electronic money products, provided, however, that risk-mitigating conditions are in place (Article 12).

As regards enhanced customer due diligence, the role of the entities obliged to apply appropriately due diligence measures is ensured, inter alia, by examining, as far as reasonably possible, the background and purpose of "all complex and unusually large transactions, and all unusual patterns of transactions, which have no apparent economic or lawful purpose".

[1] According to the ongoing discussions at the European Commission, this deadline could be reduced. See also http://www.consilium.europa.eu/press-releases-pdf/2016/2/40802208638_fr_635911299000000000.pdf.

In both cases, simplified and enhanced customer due diligence, the directive refers to annexes which present a non-exhaustive list of the minimum number of factors of potentially lower risk (Annex II) or higher risk (Annex III) and which must be taken into account by the Member States and obliged entities when assessing risks of money laundering and terrorist financing.

As far as the performance of due diligence by third parties (Article 26) is concerned, the directive restricts this possibility by prohibiting obliged entities from relying on "third parties established in high-risk countries". Nonetheless, this prohibition may not apply to third parties that are branches or majority-owned subsidiaries of obliged entities established in the EU and fully complying with the group-wide AML/CFT policies and procedures.

Finally, it is worth pointing out that the powers of the national competent authorities must be strengthened by adopting effective, proportionate and dissuasive administrative sanctions and measures in case the professionals fail to comply with the requirements, pursuant to the criteria set out for that purpose in the directive (Article 59).

1.1.2. Regulation (EU) 2015/847 of 20 May 2015 on information accompanying transfers of funds

The European regulation, applicable by 26 June 2017 at the latest, aims mainly to improve the traceability of payments and requires the transmission of information on the payer and now also on the payee to the payment institution, recipient of the transfer. The payment service provider and the intermediary payment service provider must implement effective internal procedures that include, where appropriate, ex-post monitoring or real-time monitoring in order to detect whether information on the payer and the payee is missing or incomplete. The gathered information must be kept for five years and this time frame can be extended under certain conditions of necessity and proportionality (Article 16).

1.2. Amendments to the Luxembourg regulatory framework on AML/CFT

1.2.1. Law of 12 November 2004 on the fight against money laundering and terrorist financing (AML/CFT Law)

Through the law of 24 July 2015 amending the AML/CFT Law, the Luxembourg legislator added "operators in a free zone authorised to carry out their activity pursuant to an authorisation by the Administration des Douanes et Accises (customs and excise) within the Community control type 1 free zone" to the persons to whom the scope of the AML/CFT Law applies, thus, strengthening the free zone by providing it with an effective AML/CFT regime.

1.2.2. Grand-ducal Regulation of 5 August 2015 amending Grand-ducal Regulation of 1 February 2010 providing details on certain provisions of the AML/CFT Law

Grand-ducal Regulation of 1 February 2010 providing details on certain provisions of the AML/CFT Law, as amended by Grand-ducal Regulation of 5 August 2015, specifies now some cases where, pursuant to the risk-based approach, professionals may adapt their due diligence measures with respect to customers and, where applicable, beneficial owners of the business relationship. The application conditions are cumulative and strict and concern the provision of certain online payment services specifically and exhaustively described in Article 2 of the above-mentioned Grand-Ducal Regulation of 1 February 2010. The professionals providing electronic money services may also use this new derogatory regime.

1.2.3. Penal Code

The will of the legislator to implement as quickly as possible Resolution 2178 (2014) on foreign terrorist fighters, adopted on 24 September 2014 by the UN Security Council, was boosted following the recent attacks in Europe and was reflected in the entry into force of the law of 18 December 2015.

Through the law of 18 December 2015 amending the Penal Code (PC) and the Code of Criminal Procedure in order to implement some provisions of the above-mentioned Resolution 2178 (2014), the legislator took new measures to enhance the existing legal arsenal regarding the provocation to, the recruitment and training in terrorism (Articles 135-11 to 135-13 of the PC). Thus, Article 135-11 of the PC was supplemented with a new paragraph 2 intended to criminalise provocation to terrorism when it is committed, not in public, but in a circle of specific persons. The article refers to meetings of associations and other more or less formal clubs in facilities where the admission is only possible for persons who are members of these associations or clubs, as well as circles of people from the virtual world of telecommunications like in discussion fora on the internet, the social networks on the internet or fora and social networks which are used through mobile phone applications.

This law also introduced a legal provision criminalising certain preparatory activities for committing a terrorist crime (Article 135-14 of the PC).

Moreover, the fact that a person travels to a foreign country or prepared to travel there in order to commit, organise, prepare or participate in one or several terrorist crimes is also sanctioned (new Article 135-15 of the PC). The PC is also supplemented with a new Article 135-17, paragraph 2 of which allows the judging jurisdiction to prohibit that a Luxembourg national leaves the national territory if sentenced to any sanction other than non-suspended imprisonment for any crime foreseen in Articles 135-12 to 135-15.

The main purpose of these new provisions is to confer upon the criminal justice a preventive measure by allowing the intervention of the judge prior to terrorist acts being committed with the consequence that the preparatory acts or behaviours likely to lead to the commission of terrorist acts are now defined as terrorist crimes.

1.2.4. Code of Criminal Procedure

Along the changes introduced by the above-mentioned law of 18 December 2015 in the Penal Code, the Code of Criminal Procedure was supplemented with a new section which includes Article 112-1 “Prohibition to leave the territory for reasons of terrorism”. This article lays down that any Luxembourg national who is subject to a preparatory investigation in relation to crimes referred to in Articles 135-12 to 135-15 of the Penal Code may be subject to a prohibition to leave the national territory ordered by an investigating judge, as a consequence of which the passport(s) and identification card of the person concerned are invalidated.

1.2.5. Ministerial regulations

In 2015, the Ministry of Finance issued 19 new ministerial regulations implementing UN Resolutions 1267 (1999) and 1989 (2011) (Al-Qaida) and 1988 (2011) and 2082 (2012) (Taliban).

1.2.6. CSSF Circulars

Circular CSSF 15/609 of 27 March 2015 concerns the developments in automatic exchange of tax information and anti-money laundering in tax matters. To this end, the CSSF informs the supervised entities that the scope of the predicate money-laundering offences will be extended to certain criminal tax offences in accordance with Directive (EU) 2015/849 (Article 3(4)(f)) which specifically incorporates criminal tax offences, admitted as serious tax offences, in the broad definition of criminal activity underlying money laundering.

Circular CSSF 15/623 of 26 October 2015 (preceded by Circulars CSSF 15/616 of 2 July 2015 and CSSF 15/607 of 5 March 2015) was published following the statements of the FATF during its respective plenary meetings and indicates:

- jurisdictions whose anti-money laundering and combating the financing of terrorism regime has substantial and strategic deficiencies;
- jurisdictions not making sufficient progress;
- jurisdictions whose anti-money laundering and combating the financing of terrorism regime is not satisfactory.

Circular CSSF 15/631 of 28 December 2015 lays down guidelines for the professionals subject to the CSSF's supervision to define and deal with dormant accounts. The circular specifies the professionals' obligations in order to avoid that an account becomes dormant and the obligations to comply with when an account is identified as dormant, as well as the actions to be taken with respect to the assets deposited on dormant accounts, while taking into account the professional obligations relating to AML/CFT. The main purpose of this circular is to harmonise the approach of the professionals concerned with this matter in order to foster legal security that is beneficial for the players of the financial sector and necessary for the reputation of the financial sector in general.

1.2.7. Other information

On 28 October 2015, the CSSF published Press release 15/44 regarding a consultation of the EBA, EIOPA and ESMA on anti-money laundering and countering the financing of terrorism.

On 3 March 2016, the Ministry of Finance published several important documents on the appropriate application of restrictive financial measures[2]:

- guide of good conduct regarding the application of financial sanctions with respect to the fight against terrorist financing;
- guide of good conduct regarding the application of financial sanctions to third countries, entities and private individuals;
- FAQ on the use of the above-mentioned guides;
- form for the notification of and/or authorisation request for the transfer of funds falling within the scope of financial sanctions.

2. PARTICIPATION OF THE CSSF IN MEETINGS REGARDING THE FIGHT AGAINST MONEY LAUNDERING AND TERRORIST FINANCING

2.1. International AML/CFT meetings

2.1.1. Financial Action Task Force (FATF) and its different working groups

The FATF is an intergovernmental body whose purpose is to set standards and promote effective implementation of legal, regulatory and operational measures regarding AML/CFT and other threats to the integrity of the international financial system. To this day, the FATF comprises 37 members, among which two regional organisations (European Commission and Gulf Co-operation Council), two observers (Israel and Saudi Arabia) as well as several associate members among which many FATF-style regional bodies.

Any documents regarding the work of the FATF is available on the website http://www.fatf-gafi.org/.

In 2015, the FATF gathered three times in plenary meetings. Two topics were on the agenda of the FATF throughout the year, namely the enhancement of the fight against terrorist financing and the issue of de-risking. These topics were also discussed in depth during the public consultation with the representatives of the private sector which took place in April 2015. During the consultation, another key topic concerned the approach to adopt by the professionals vis-à-vis clients that are non-profit organisations (NPO), which should not result in a one-size-fits-all approach, so as to effectively fight terrorist abuses of NPOs. NPOs are not always high risk and may have legitimate charity activities.

The first recurring topic dealt with in 2015 by the FATF was the enhancement of the fight against terrorist financing. Following the terrorist attacks in Paris in January 2015, the FATF published a declaration in February 2015 confirming that, pursuant to its mandate, the FATF has particular responsibility to develop a coordinated and decisive response to fight not just terrorist financing, but also terrorism. During its Plenary meeting of February 2015, the FATF adopted, among others, the report "Financing of the terrorist organisation Islamic State in Iraq and the Levant" which contributes to the international discussions on the means to counter

[2] Weblink: http://www.mf.public.lu/publications/sanctions_financieres_int/index.html.

terrorist financing. Through this report, the FATF also identified several significant risks of a new type, that are related to terrorist financing.

The other initiatives taken in 2015 in relation to the strengthening of the fight against terrorist financing may be summarised as follows:

- adoption of the report "Emerging terrorist financing risks": this report summarises the most important revenue sources and financial activities of the terrorist organisation Islamic State. This organisation finances its operations, infrastructure and governance requirements mainly through exploitation of the territory under its control, for example through the appropriation of the cash held in banks belonging to the State (approximatively half a billion dollars at the end of 2014) and the oil fields. It also uses other sources of revenue, like kidnapping for ransom, donations to non-profit organisations, foreign terrorist fighters and fundraising through social media. Thus, this report highlights some new and existing measures to implement by the Member States in order to disrupt the financing of the Islamic State;
- revision of the interpretative note to Recommendation 5 (criminalisation of terrorist financing and terrorist organisations) in order to take into account some provisions of UN Security Council Resolution 2178 (2014) on foreign terrorist fighters adopted on 24 September 2014 (cf. also point 1.2.3. above);
- review of the transposition of Recommendations 5 and 6 (freezing of terrorist assets and mechanism for designating terrorists) in 194 jurisdictions. Over 90% of the jurisdictions already implemented measures in relation to the requirements of the above-mentioned two recommendations. The jurisdictions having deficiencies are subject to a monitoring process by the FATF according to the severity of the deficiencies. According to this report, Luxembourg meets the compliance criteria. The FATF communicated its conclusions to the G20 which will publish a report on this subject soon;
- continuation of the study of the typology regarding terrorist financing;
- strengthening of relations between operational experts and the financial intelligence units, members of the Egmont Group;
- drawing-up of guidelines for the implementation of the criminalisation of terrorist financing and of a guide for facilitating the implementation of financial sanctions.

The second recurring topic which was subject to many discussions within the FATF is the de-risking problem. Several analyses show that the causes for the trend of certain international banks to separate from customers are manifold and that the efforts to be made by professionals for the purposes of AML/CFT is just one of many reasons. Consequently, the FATF reiterated that a correct and appropriate implementation of an approach which takes into account risks consists in mitigating the different risks (which are greater in some situations), without necessarily having to terminate a business relationship when confronted to higher risks. This approach is also shared by the CSSF. Indeed, it is advisable to avoid that complete categories of transactions or business relationships be directed towards an informal and non-transparent financial sector.

Moreover, during the plenary meeting of the FATF in June 2015, some reports were adopted, as for example, "Best practices on combating the abuse of non-profit organisations" and "Guidance for a risk-based approach to virtual currencies". The guidance is of particular interest for the activities in the Luxembourg FinTech sector, launched either by new institutions or through relations and interactions with the traditional financial sector. The document should be read together with the FATF report on the typologies published in June 2014 and the risk matrix specified in "Guidance for a risk-based approach to prepaid cards, mobile payments and internet-based payment services" of June 2013. The purpose of these guidelines is to explain the application of the risk-based approach in the field of virtual currencies, to identify the entities involved in this activity, to clarify the application of the FATF's recommendations, especially for convertible virtual currency exchangers and to identify obstacles to the application of mitigating measures for the current risks.

In October 2015, the plenary adopted a document likely to be of interest to the private sector, in so far as it clarifies the expectations and application of a risk-based approach in the framework of the supervision and enforcement. Indeed, the financial services sector plays a key role in the prevention of the flow of funds through the international financial system with the aim to launder and to finance terrorism and requires the implementation of effective supervision.

Moreover, the report on money laundering via the physical transportation of funds or cash was adopted in October 2015.

Still in October 2015, the fifth meeting of the working group of the G20 and the FATF took place with respect to the fight against corruption. This year, the discussions were particularly intense as private sector experts were invited for the first time to share their opinion, experience and practice in this matter.

Finally, from 12 to 14 December 2015, the FATF held a special meeting in Paris in order to discuss the actions that the countries are taking and should take to combat the financing of the Islamic State as well as the opportunities to strengthen global efforts to combat terrorist financing. This meeting included also a special meeting of operational experts involved in the detection, prevention and disruption of terrorism and terrorist financing and of the Egmont Group of Financial Intelligence Units.

In parallel to these preventive actions, the FATF continued its fourth cycle of mutual evaluations which represent a fundamental part of its work. Through these evaluations, the FATF checks the implementation of its recommendations in the member countries and assesses the global effectiveness of their AML/CFT regime and certain obligations in relation to the fight against the financing of the proliferation of weapons of mass destruction.

2.1.2. Joint Committee's Sub-Committee on Anti-Money Laundering (AMLC)

The AMLC, dedicated to the fight against money laundering and terrorist financing, is a sub-committee of the Joint Committee of the three European Supervisory Authorities (EBA, ESMA and EIOPA).

In 2015, the AMLC met three times to discuss and formalise, among others, the following two documents which were subject to public consultation in December 2015:

- "Guidelines on risk factors and simplified and enhanced due diligence"; and
- "Guidelines on risk based supervision".

2.1.3. Expert Group on Money Laundering and Terrorist Financing (EGMLTF)

The EGMLTF is a working group whose purpose is to assist the European Commission in the preparation and implementation of its policies. It serves as a platform for coordination and exchange of views between the European Commission and Member States and provides expertise to the European Commission when preparing implementing measures.

The EGMLTF met twice in 2015. The items on the agenda included the follow-up of the negotiations with respect to Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, the assessment of the risks of money laundering and terrorist financing, virtual currencies as well as topics discussed during the FATF's meetings.

2.1.4. Anti-Money Laundering Expert Group (AMLEG)

The AML/CFT Expert Group of the Basel Committee on banking supervision met twice in 2015. The discussions focussed on the de-risking issue, the activity of correspondent banking and the preparation of a revised version of the general guide to account opening. This document, which was subject to a wide public consultation, was finalised and published in January 2016 (cf. also the CSSF Newsletter of February 2016). The guide was published as an annex to the document "Sound management of risks related to money laundering and financing of terrorism" and is available at http://www.bis.org/bcbs/publ/d353.pdf.

2.1.5. Workshops of the European Commission

The European Commission held two workshops in 2015 which concerned the transposition of Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and the implementation of Regulation (EU) 2015/847 on information accompanying transfers of funds.

2.1.6. The Wolfsberg Group

The Wolfsberg Group consisting of 11 globally active banks held its traditional annual meeting in May 2015. The discussions mainly focussed on the efficiency of the fight against financial crime and the various challenges and obstacles, as well as new initiatives in this matter, particularly with respect to possible means to measure efficiency. Other topics on the agenda concerned cybercrime, the development of the risk of terrorist financing and the fight against corruption. In this context, the Wolfsberg Group published in September 2015 the document "Frequently asked questions on risk assessment for money laundering, sanctions and bribery & corruption".

2.2. National AML/CFT meetings

2.2.1. Cooperation with competent AML/CFT authorities

In 2015, in addition to other ad hoc contacts, the CSSF held three meetings with the representatives of the FIU (Financial Intelligence Unit) and/or the State Prosecutor's office. The information exchanged during these formal meetings is taken into account for the AML/CFT risk-based supervision by the CSSF. Moreover, exchanges on the regulatory interpretations took place, particularly as regards the professionals' obligations to cooperate with the competent authorities.

Furthermore and in accordance with the requirements laid down in Article 2(4) of the CSSF's organic law of 23 December 1998, discussions in relation to the fitness and properness of the professionals supervised by the CSSF took place with the different national authorities.

2.2.2. National coordination meetings on AML/CFT

Several coordination and consultation meetings of the national competent authorities in AML/CFT were held in 2015 under the chairmanship of the Ministry of Justice or the Ministry of Finance, respectively, depending on the topics of the corresponding working groups.

As in 2014, the discussions mainly focussed on the national assessment of the AML/CFT risks, on the work and different reports of the FATF and on the start of the transposition of Directive (EU) 2015/849 and implementation of Regulation (EU) 2015/847.

As far as the application of international financial sanctions is concerned, particular attention should be paid on the drawing-up of guides and forms in this field (cf. also point 1.2.7. above).

2.2.3. AML/CFT Committee of the Commissariat aux Assurances

During the meeting of this committee in which the CSSF was represented, the insurance sector was informed of the new developments in AML/CFT.

3. INFORMATION FOR PROFESSIONALS SUBJECT TO THE SUPERVISION OF THE CSSF REGARDING THE FIGHT AGAINST MONEY LAUNDERING AND TERRORIST FINANCING

Identification through videoconferencing

The CSSF draws the attention of the professionals to the document "FAQ regarding the identification/verification of identity through video chat" published on the CSSF's website[3]. In this document, the CSSF specifies the requirements regarding the use of videoconferencing for the purpose of identifying and verifying the identity of the customer and, if applicable, of the beneficial owner.

[3] Weblink: http://www.cssf.lu/fileadmin/files/LBC_FT/FAQ_LBCFT_VIDEO_IDENTIFICATION_080416.pdf.

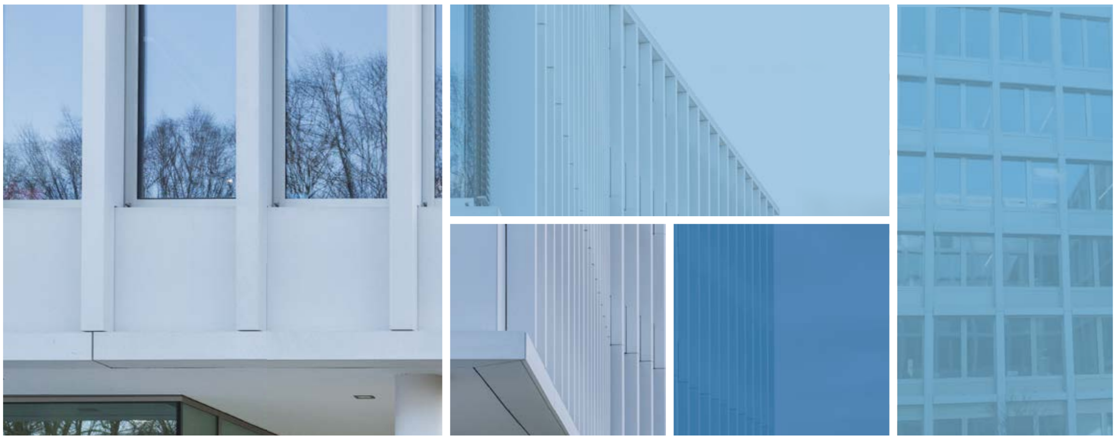
Agents hired in 2015 and 2016: Departments "Coordination of the UCI departments' specific IT tools" and "UCI Operations"

Left to right: Jérôme BLONDEL, Sami HAMZEH, Susan PIDGLEY, Chris BIOT, Amandine LEVRAT, Marie WALLERS

Absent: Christine ANTONY, Carine BISENIUS, Sonia FREITAS DE OLIVEIRA

CHAPTER XVII

FINANCIAL CONSUMER PROTECTION



1. FINANCIAL CONSUMER PROTECTION

Financial consumer protection remains a priority for the European and national supervisory authorities. If this protection was considered by many, until recently, as a constraint or necessary evil, today, besides the laws and regulations which impose it, this protection is increasingly considered as constituting an approach which allows the professionals to secure loyalty or even increase the number of customers. Thus, the enhanced customer communication, the care with which the professionals deal with customer complaints, the clarity and transparency of the contractual conditions are all factors contributing to the good reputation of the professionals and to the attractiveness of the financial centre.

In 2015, the CSSF noted, based, in particular, on the first reports of the professionals regarding customer complaints, that the supervised entities have reviewed, to a great extent, their internal organisation and their procedures for dealing with complaints in order to comply with CSSF Regulation N° 13-02 of 15 October 2013 relating to the out-of-court resolution of complaints and with Circular CSSF 14/589 providing details concerning certain points of said regulation. The fact that the supervised entities improved their procedures for dealing with customer complaints and adapted, where necessary, their structures in accordance with the new requirements regarding financial consumer protection shows undeniably a substantial progress with respect to consumer protection and financial culture.

The protection of financial consumers also involves their education. Even if the professionals of the financial sector made an effort to be in line with the new regulatory requirements of the CSSF, there is, nevertheless, still progress to be made regarding financial education.

In this respect, in 2015, Standard & Poor's Rating Services carried out a study ("Global Financial Literacy Survey") which is currently the most comprehensive measure in financial education. The study, which is based on interviews with over 150,000 adults across more than 140 countries, assesses the knowledge of four fundamental concepts in financial decision-making: risk diversification, inflation, numeracy and compound interest. The survey helps the ranking of the countries according to the degree of their residents' basic knowledge in financial education.

According to Standard & Poor's, only 53% of the Luxembourg population has that knowledge. Thus, a significant part of the population does not have the necessary knowledge to efficiently manage its own finances and to take informed decisions independently.

Without it being a cure-all for financial ills, financial education constitutes an important supplement to market regulation and consumer protection. The growing complexity of the financial services and products, more easily accessible than in the past, highlights the importance to improve the knowledge and behaviour of the citizens regarding the management of their personal finances. An effective financial education should result in each citizen having basic knowledge in finance so as to manage his/her money and the financial risks efficiently and sensibly.

1.1. Financial consumer protection and financial education at international level

In addition to its involvement at European level in respect of financial consumer protection, the CSSF contributes to the work of several international groups the purposes of which are financial consumer protection and the spread of financial education.

1.1.1. Task Force on consumer protection of the OECD Committee on Financial Markets

During its plenary meeting in March 2015, the work of the Task Force focussed on the implementation of the operational action plan that it developed following the work regarding the 10 High-Level Principles of the G20 on financial consumer protection. The following points of the operational action plan were discussed: Intelligence Sharing, Research and Policy Analysis, Mutual Learning Programme and Peer Review, Global Dialogue and Co-Ordination.

Prior to the plenary meeting of the Task Force of September 2015, there was a conference called “Discovering what works: Building research into practical regulation for consumer financial protection”, the purpose of which was to implement a platform for the supervisory authorities and those who undertake or intend to undertake researches in the field of financial consumer protection. The platform would be used to present the results of the researches, to share ideas and, possibly, to identify collaborators for future projects. The conference was part of the programme for implementing point 2 of the operational action plan (Research and Policy Analysis).

During the above-mentioned plenary meeting, the Task Force discussed the progress made regarding the different points of the operational action plan. Moreover, it drew up the conclusions of the above-mentioned conference and discussed the monitoring of the transposition of the 10 High-Level Principles of the G20 on financial consumer protection. The agenda also covered the results of the researches carried out by the OECD regarding financial consumer complaints.

1.1.2. Finconet

Established in 2013, Finconet is an international organisation of supervisory authorities whose purpose is financial consumer protection, the main focus being on banking and consumer credit issues. The CSSF has been a member of Finconet since January 2015.

In 2015, Finconet published a press release highlighting the risks to consumers from inappropriate sales incentives as, for example, granting credits to vulnerable customers for the sole purpose of concluding a given number of credit contracts with no consideration of the customers’ ability to repay the debtors.

Moreover, Finconet drew up a questionnaire on responsible lending which was answered by 23 Member States. A synthesis report on the received answers will be published in 2016.

1.1.3. International Network on Financial Education of the OECD (INFE)

The INFE, which was created in 2008 by the OECD, is an international network which serves as a platform to collect data on financial literacy and to develop analytical and comparative reports, research, as well as policy instruments. The INFE also seeks to promote and facilitate the international cooperation between the different participants (politicians, regulators, associations, etc.) concerned by the financial education issue at global level. Over 113 countries are members of the INFE, among which 96 public authorities which have the status of fully fledged members.

In order to take into account its continuous development in terms of membership and activities, the INFE created the INFE Technical Committee which meets twice a year since 1 January 2014.

One of the key topics of the INFE is the national strategy regarding financial education that each Member State is requested to put in place. Some countries have already introduced or are about to introduce such a strategy whereas others work on its development. The INFE devotes significant efforts to help member countries to develop a national strategy and published in this respect the “Policy Handbook on the Implementation of National Strategies for Financial Education”. This document and the documents titled “Core Competences Framework on Financial Literacy for Youth”, “Financial Education for Migrants and their Families: Policy Analysis and Practical Tools” and “Progress Report on Financial Education for MSMEs and Potential Entrepreneurs” were presented to the G20 during the summit in Antalya on 15 and 16 November 2015.

1.1.4. Committee 8 on Retail Investors of IOSCO

The primary mandate of Committee 8 is to conduct the IOSCO’s policy work as regards financial education. Its secondary mandate is to advise the IOSCO Board on issues relating to investor protection and to work on the policy to be adopted in this field.

In May 2015, IOSCO published the final report on the Committee’s survey on anti-fraud messaging used in different jurisdictions. This report provides information and concrete examples of strategies allowing the identification of efficient methods to educate investors and protect them from frauds.

In September 2015, IOSCO published the final report on sound practices to raise investors' awareness of the risks they are exposed to. Some sound practices were identified, such as investment risk education initiatives.

In general, IOSCO has long recognized financial education as an essential strategy to enhance investor protection and promote investors' confidence. Investor education is complementary to other tools such as regulation and supervision and their implementation.

1.2. Financial consumer protection at national level

1.2.1. Financial Consumer Protection Committee (CPCF)

As a platform gathering all the players concerned by financial consumer protection, it is not the CPCF's goal to interfere with the work of the various members but to exchange information, identify areas for improvement, coordinate certain initiatives or even carry out joint projects. The aim is to set up a dialogue which would, ultimately, lead to concrete results (adaptation of regulatory texts, improvement of the published information and achievement of joint projects in the field of consumer protection and financial education).

The work of the committee led very quickly to the conclusion that financial consumer protection is linked to financial education and that it is, therefore, necessary to concentrate on the development of the latter. The different studies carried out at EU level showed that most of the people only have rudimentary knowledge of finance and economic players. However, each person should have basic knowledge of the financial world which will allow him/her to manage his/her money and assess the related financial risks efficiently and sensibly. Financial education concerns all ages (from children and teenagers to adults) and covers many topics, like the value of money, the definition of budget, over-indebtedness or retirement pensions.

The very principle of the necessity to implement financial education is undeniable today, given the underlying challenges facing society. The OECD, the G20 and the European Commission recommend each Member State to adopt a national strategy in this field.

Consequently, the CPCF created an ad hoc working group to prepare a national strategy regarding financial education. This strategy targets all ages and all life stages but the focus is on young people.

At international level, it is clear that consumers must benefit from an economic and financial education as soon as possible in the school years. The good habits regarding financial education should ideally be acquired in school. The national authorities are requested to integrate financial education in the school curricula as a compulsory subject.

Each student who leaves the Luxembourg school system should have attended a course which allows him/her to have practical knowledge in finance and to understand the fundamentals of economics. The student should learn, inter alia, to manage his/her income and expenses, to establish a household budget and to take the right decisions on his/her financial liabilities. Moreover, s/he should also become familiar with the means of payment and have basic knowledge about financial instruments. The prepared strategy was adopted by the CPCF in September 2015 and published on the CSSF's website[1].

In order for Luxembourg to be able to progress and to officially have a national strategy regarding financial education, the government should adopt the proposed strategy and take measures for its implementation.

In 2015, the CPCF discussed also the following topics:

- dormant accounts and dormant assets;

- draft law No 6769 introducing the out-of-court resolution of consumer disputes into the Consumer Code.

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[1] http://www.cssf.lu/fileadmin/files/Protection_consommateurs/Education_financiere/Strategie_nationale.pdf.

2. OUT-OF-COURT RESOLUTION OF COMPLAINTS

Since its creation, the CSSF has assumed a role of intermediary in the out-of-court dispute settlement aiming at professionals subject to its supervision.

The CSSF handles complaints which are submitted to it by following the procedure provided for in the first section of CSSF Regulation N° 13-02 relating to the out-of-court resolution of complaints. The second section of CSSF Regulation N° 13-02 aims to specify certain obligations incumbent upon professionals in relation to the internal handling of complaints or in their relationship with the CSSF.

2.1. Reporting of complaints to the CSSF by professionals

The reporting of complaints by professionals pursuant to Article 16 of CSSF Regulation N° 13-02 of 15 October 2013 relating to the out-of-court resolution of complaints and in accordance with Circular CSSF 14/589 providing details concerning the above-mentioned regulation had to be submitted for the first time to the CSSF by 1 March 2015. Given that the above-mentioned article entered into force on 1 July 2014, this first reporting exceptionally covered only the complaints which were submitted to the professionals in the second half of 2014.

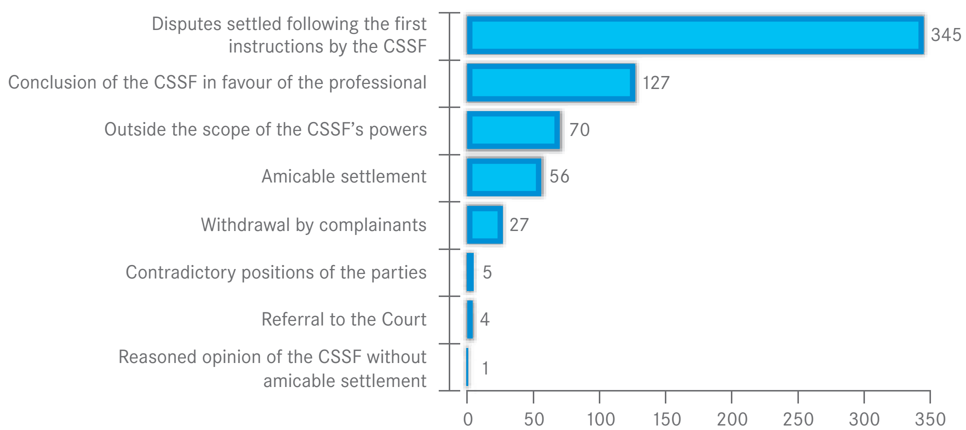
For the record, Article 16 of CSSF Regulation N° 13-02 provides that the manager in charge of dealing with complaints must communicate to the CSSF, on an annual basis, a table including the number of complaints registered by the professional, classified by type of complaints, as well as a summary report of the complaints and of the measures taken to handle them.

Overall, the reporting was carried out well. The vast majority of professionals used the table provided by the CSSF for this reporting. The CSSF also noted that the professionals had, in general, revised their procedures with respect to complaints in order to better address the new regulatory requirements regarding the out-of-court resolution of complaints.

2.2. Statistics regarding CSSF complaint handling in 2015

In 2015, the CSSF received 584 financial consumer complaint files concerning entities under its supervision. It closed 635 files (including files received in the preceding years and not closed until then) in the course of the year for different reasons as shown in the table below.

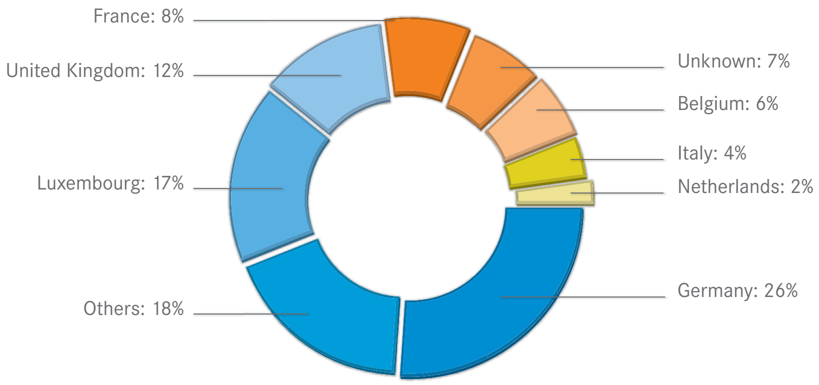
Outcome of the CSSF's intervention/reasons for closing the files



When the CSSF receives a financial consumer complaint, it sends an acknowledgement of receipt which includes all the useful instructions so that, in the first instance, the claimant may resolve the dispute with the professional without additional intervention of the CSSF. This acknowledgement of receipt indicates, among others, the full name of the manager in charge of complaints whom the complainant should contact at the entity concerned in order to reach an amicable settlement and the link to the CSSF's webpage where useful information on the out-of-court handling of complaints by the CSSF is available to the complainant.

Judging by the high number of disputes which were settled following these first instructions of the CSSF, the logical conclusion is that the CSSF's approach consisting in facilitating the dialogue between the parties to the dispute and not contacting immediately the supervised entity concerned by a complaint, is successful.

Breakdown of the complaints according to the complainants' country of residence

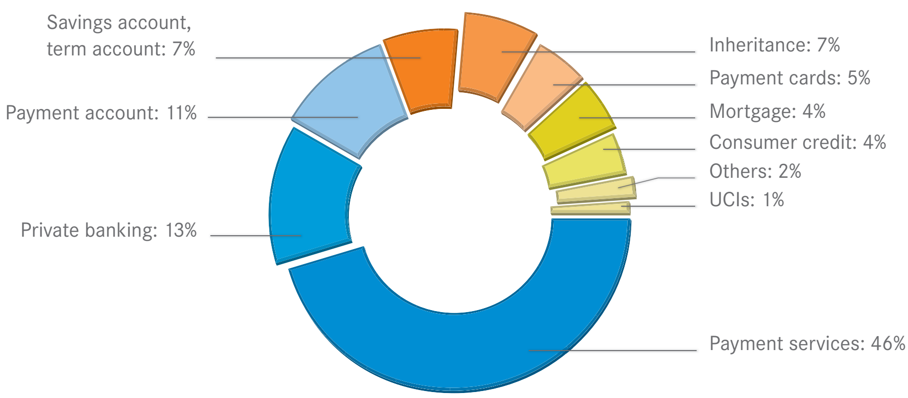


In 2015, the breakdown of the complaints according to the complainants' country of residence did not change much compared to 2014.

The share of complaints from German residents remains the most important with 26%. The downward trend of the complaints from the United Kingdom continues in 2015 but their number still remains quite high compared to complaints from Luxembourg or the neighbouring countries. This downward trend of the number of complainants who have their residence in the United Kingdom can be explained by the fact that the CSSF intervenes henceforth with providers of electronic payment services on a more sustained basis, so that they are more responsive to their customers.

The country of residence of the complainants is not identified in 7% of the cases, which is, in general, due to the fact that these complainants contacted the CSSF by way of emails without indicating their country of residence. Finally, the category "Others" covers 39 different countries.

Breakdown of complaints according to their object



The breakdown of complaints according to their object remained stable in 2015 compared to 2014. With 46% (idem in 2014), the major share of complaints concerns problems linked to the use of electronic payment services. The share of complaints related to private banking (11%) follows the trend of the past years (11% in 2014 and 12% in 2013). The share of complaints in connection with UCIs is low given the importance of the investment fund sector in Luxembourg.

2.3. Analysis of the complaints dealt with in 2015

The analysis of the complaints dealt with in 2015 focusses on issues regarding the following topics:

- asset management by the professional or by the customer;
- fees charged by professionals to customers;
- rights and obligations of proxies and beneficial owners of bank accounts;
- impact of opinions issued by the CSSF.

2.3.1. Asset management by the professional or by the customer

• Asset management by the professional

In a case submitted to the CSSF, the complainant, who had suffered losses in the context of discretionary asset management by a bank, supported the point of view that he had to benefit from a high return according to the provisions of the discretionary management agreement signed with the bank. He also maintained that he had agreed with the bank that his assets would be managed in a prudent and reasonable manner and that his portfolio would include neither more than 50% of shares nor more than 50% of liquidity. The complainant also affirmed that this restriction was indicated in his investor profile, but that his bank ignored it.

The bank denied any responsibility concerning the losses incurred by the complainant and specified that the complainant had been duly informed of the “aggressive” investment strategy that he had chosen. The discretionary management agreement laid down clearly that the purpose of the chosen investment programme was to limit, where possible, the risk of loss of the invested capital. In addition, the investment programme chosen by the complainant specified that there was no capital guarantee and no capital protection.

During the analysis of the contractual documents, the CSSF noted that the complainant’s risk profile established at the time of the signature of the management agreement indicated that he was an experienced investor with an “aggressive” profile. Only after having suffered losses did the complainant request to change the initial “aggressive” risk profile for a “medium” profile. During this change of risk profile, the complainant requested to keep 50% of all his assets in liquidity. In the end, the CSSF concluded that it could not uphold the complainant’s request.

In another case, several members of the same family who entrusted the management of their respective securities portfolios to a bank, reproached the bank for managing their assets in disregard of their investor profiles.

The CSSF noted in the documents provided by the parties to the dispute that the complainants agreed with the bank on different risk profiles ranging from “conservative” to “balanced” without the bank taking these differences into account in its management strategy of the different securities portfolios. The bank was unable to give convincing explanations on this point to the CSSF. Consequently, the CSSF resolved the dispute against the bank and invited the latter to settle the dispute with a commercial gesture in favour of the complainants.

• Asset management by the customer

When a customer manages his assets autonomously, he must be aware of his responsibility. It is in his interest to carefully read the information provided by the bank without the latter having to draw the customer’s attention to the importance of one or the other information provided.

In one case submitted to the CSSF in 2015, it was sufficiently clear from the start that the complainant took the decision by himself to invest in a financial instrument that turned out to be a bad investment. After a few years, when it was clear that he had suffered losses, the complainant wanted to make his bank accountable. He accused the bank of communicating inaccurate information about the name of the issuer of the disputed securities and of maintaining confusion as to the true identity of the issuer of these securities.

The bank defended itself by pointing out that the complainant had been managing his portfolio autonomously for a long time and that he had been duly informed the day following the disputed transaction via a transaction advice from the bank. The complainant also signed a release relating to the purchase of the disputed securities which included the issuer's name. By signing this document, the complainant acknowledged that he had been informed by the bank that these securities were not suitable for his profile. The complainant cannot reproach the bank, years after the transaction, for not having told him the exact name of the issuer of the disputed securities which was clearly indicated in the above-mentioned advice and release. Consequently, the CSSF closed the case by not upholding the complainant's grievances.

2.3.2. Fees charged by professionals to customers

In 2015, the CSSF dealt with some disputes in which the complainants challenged the fees that the professionals charged them.

In principle, the CSSF is not competent for assessing the prices applied by the professionals to their customers in the context of their commercial policy. However, the CSSF may intervene where the issue is to determine whether a customer was duly informed of the professional's pricing conditions which were then applied by this professional.

Thus, the CSSF dealt with a case where the complainants complained about fees being billed by their bank for the drawing-up of some bank documents they required for their tax declaration. It should be pointed out that, until then, the bank had provided these documents for free. It turned out that the bank levied a fee for the drawing-up of these documents following a notice from the complainants of their intention to close their account.

The bank explained to the CSSF that the amount levied as fee represented the cost for the work carried out to draw up these documents. The CSSF asked the bank to provide evidence that the complainants had been informed beforehand of these fees but the bank was not able to provide this evidence. As the CSSF also noted that the pricing conditions of the bank did not include specific terms and conditions legitimating the bank's claims, it concluded that the bank had not proven that the complainants had been informed beforehand of the disputed fees. Thus, the CSSF closed the case in favour of the complainants.

In another case, the complainant contested the amount of the fees levied by his bank for the transfer of his securities to an account opened with another financial institution. The complainant maintained that an agreement had been signed by the two financial institutions concerned which laid down that the transfer of securities of customers carried out between the two banks will not be invoiced to the customers. Consequently, he asked that this agreement be applied to his transfer of securities.

The bank denied the existence of such an agreement and explained to the CSSF that the complainant was informed by his advisor via mail, prior to the transfer of the securities to his new bank, that no agreement, laying down that no fees would be charged to the customer for the transfer, had been signed by the banks concerned. The bank also indicated (with supporting documents) that the complainant had been informed of the application of the standard price for the transfer of securities in accordance with the bank's pricing conditions which had been accepted by the complainant. Since the complainant could not prove the existence of the agreement he wished to benefit from, the CSSF could not conclude against the bank.

In another case challenging the fees, that the CSSF dealt with in 2015, the bank changed its prices and their calculation methods for the provision of private banking services. The application of the new prices had been announced to the complainant beforehand through an explanatory letter. After the bank had debited the first fees in accordance with the new prices, the complainant considered that he had not been properly informed about the application of these new prices because the explanatory letter of the bank did not, according to the complainant, explain that the new prices would be applied to savings as well as to securities accounts. The analysis of this letter lead the CSSF to conclude that the announcement of the new prices was not sufficiently clear with respect to the definition of the different accounts concerned by the pricing of the private banking services. Thus, the CSSF requested the bank to make a commercial gesture in favour of the complainant.

2.3.3. Rights and obligations of proxies and beneficial owners of bank accounts

The CSSF regularly deals with complaints which provide it with an opportunity to specify the rights and obligations of the persons having power of attorney on a bank account or persons being beneficial owners of legal persons holding bank accounts.

• Specifications on the rights of proxies of an account

In the following case, closed in favour of the bank, the CSSF had the opportunity to reiterate the scope of the rights of persons having power of attorney over an account opened in the name of a legal person. The complainant who had the power of attorney over a bank account opened in the name of a company which had been dissolved since several years, reproached the bank for refusing to communicate account statements relating to the account of the company concerned. In order to justify its refusal, the bank argued that the account had been closed following the dissolution of the company holding this account and that the power of attorney of the complainant had therefore no longer been applicable. The CSSF closed the file by concluding in favour of the bank.

In another case, the complainant who had power of attorney over his father's account reproached the bank for failing to comply with its due diligence obligations during the execution of a closing order containing the father's signature which was grossly counterfeited. Moreover, further evidence of the counterfeit was the fact that the father was no longer alive when the order was signed so that the signature on the closing and transfer order was unquestionably false.

During the scrutiny of the complaint file by the CSSF, it turned out that the complainant voluntarily failed to inform the bank of his father's death. The CSSF noted that according to his mandate, the complainant had the obligation to inform the bank of the principal's death.

The CSSF closed the case by concluding that the bank could have failed to recognise the counterfeit on the transfer order without making any mistake because the counterfeit was not as obvious as the complainant pretended it to be. The CSSF made it clear to the complainant that it was inappropriate to blame the bank for failing to detect a counterfeited signature on the disputed transfer order, whereas he did not comply with his contractual obligation to inform of his father's death which would have helped the bank detecting the counterfeit.

In another case, the complainant claimed that the bank advised his father to grant his children an unlimited post-mortem power of attorney in order to ensure that after his death, his children would be able to have normal access to his bank account. The bank rejected the complainant's claim and stated that it never had presented the post-mortem power of attorney as an instrument of devolution of inheritance assets.

During the scrutiny of the case, the CSSF noted that the power of attorney contract included a clause according to which the bank could not accept orders from the proxies in the event of death of the principal if they did not declare to the bank that they had informed all the heirs of the existence of this post-mortem power of attorney and did not communicate the identity of these heirs to the bank. It turned out that, after the death of their father, the complainant and the other proxies of the post-mortem power of attorney did not inform one member of the family who was heir and that, therefore, they did not fulfil their obligation towards the bank.

The CSSF closed the case by concluding that the complainant failed to fulfil his contractual obligations as proxy and that he could not prove that the bank had failed to inform his father of the purpose of the post-mortem power of attorney.

• Clarification about the rights of the beneficial owner of a company holding an account

The absence of a contractual relationship between the person designated as beneficial owner by a holder of an account opened with a financial institution and this financial institution often has repercussions on the exercise of the right to information of the beneficial owner about the account in question as illustrated by the following case dealt with by the CSSF.

In this case, a person blamed the bank for having poorly managed the securities portfolio the management of which he entrusted with that bank. The analysis of the documents communicated to the CSSF during the scrutiny of the case revealed that the complainant was in fact not holder of the account managed by the bank but the beneficial owner of the company in the name of which this account was opened.

The CSSF was of the opinion that there was no contractual relationship between the person designated as beneficial owner by the account holder and the bank with which this account had been opened. Since the complainant was not himself the account holder and was not able to provide the CSSF with a contractual document which would give him a legitimate right to receive information on the disputed account, the CSSF concluded that the complainant could not expect to have a right to information about the transactions which were made on this account.

2.3.4. Impact of opinions issued by the CSSF

The experience shows that the opinions issued by the CSSF in the context of out-of-court resolution of complaints have an impact despite the fact that, in principle, they are not binding for the parties to the dispute. The following examples show that the impact of the opinions issued by the CSSF can be manifold.

In one case relating to the fixed interest rate proposed to the complainant in a financing offer of a bank, the CSSF was particularly attentive to the wording of the terms and conditions of the documents accompanying this financing offer. The financing offer provided for, notably, that following a timeframe of 30 days, the fixed interest rate of the offer would be subject to a possible increase which would take place between the date of the offer and the date of the liquidation of the funds. The complainant complained to the CSSF because, after the 30-day timeframe, the fixed interest rate would only be increased but not adapted downwards or upwards, as the case may be.

The bank stated, with examples, that, in practice, the fixed interest rate is also adapted downwards even if it is not expressly stipulated in the financing offer. The CSSF deemed that the wording of the terms and conditions of the financing offer was not clear enough as to the possible decrease as well as increase of the interest rate. Thus, the CSSF requested the bank to clarify the terms and conditions of its financing offer. By return mail, the bank announced that it would rewrite its financing offer.

According to the circumstances, the CSSF may ask a professional to refund all the damages that the complainant suffered. This was the case in a complaint in relation to the exchange rate applicable to financial instruments which were transferred from one bank to another. The bank from which the transfer should have been made was of the opinion that the receiving bank did not sufficiently ensure coverage of the transferred securities against the exchange rates variations. Following the CSSF's opinion that, as provided for in the terms and conditions of the agreements between the two parties, the bank from which the transfer is made must take all the appropriate coverage measures, the latter finally refunded the complainant of all the damages he suffered.

Sometimes, it happens that the professional only reluctantly accepts the CSSF's opinion and proposes to its customer an arrangement but with carve-outs. This had been the case in a complaint where the bank's breach of its MiFID obligations was, in the CSSF's opinion, undeniable. The bank was not able to provide documented evidence of a transaction carried out for its customer because it had not kept the documents in relation to this transaction. Even if the bank had not been able to provide the documents relating to this transaction, it affirmed that it informed the complainant of this transaction in due form. The bank finally accepted to make a commercial gesture in favour of the complainant but it specified that it was an exceptional gesture without admitting any liability and by reserving all rights.

2.4. FIN-NET

FIN-NET which was launched by the European Commission in 2001 focusses on the out-of-court financial dispute resolution. It is composed of bodies established in the EEA countries whose task is to resolve out-of-court disputes arising between consumers and financial services providers.

Within FIN-NET, these bodies cooperate to provide consumers with easy access to out-of-court complaint handling procedures in cross-border cases. If a consumer residing in a Member State has a dispute with a financial services provider from another Member State, FIN-NET members will put the consumer in touch with the relevant out-of-court complaint settlement body and provide any necessary information in this context.

In its capacity of FIN-NET member, the CSSF took part in the semi-annual meetings of the network, in June and December 2015 in Brussels.

The agenda of these meetings included, in particular, an exchange of information on the progress of the transposition of Directive 2013/11/EU of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC. The implementation of Regulation (EU) No 524/2013 of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR) as well as the setting-up of the ODR (Online Dispute Resolution) platform were also discussed. Particular attention was paid to the possible impact of the above-mentioned directive and regulation on FIN-NET. The FIN-NET members also focussed on scams where dishonest people pretend to be FIN-NET agents and promise to resolve disputes in return for payment. Finally, the FIN-NET members had the opportunity to share their experiences in the field of out-of-court resolution of cross-border complaints with respect to unfair commercial practices.

CHAPTER XVIII

BANKING AND FINANCIAL LAWS AND REGULATIONS

1. Directives and regulations under negotiation at EU level
2. Directives to be transposed into national law
3. Laws and regulations adopted in 2015

1. DIRECTIVES AND REGULATIONS UNDER NEGOTIATION AT EU LEVEL

The CSSF participates in the groups examining the following proposals for directives or regulations.

1.1. Proposal for a regulation on structural measures improving the resilience of EU credit institutions (BSR)

The proposal for a regulation, which was adopted by the European Commission on 29 January 2014, provides for European rules to stop the most significant and complex credit institutions from proprietary trading. Thus, it would give supervisory authorities the power to require these credit institutions to separate their deposit-taking business from certain potentially risky trading activities, if the pursuit of such activities compromises financial stability. These measures complement the overarching reforms already undertaken in the EU to strengthen the financial sector. A political agreement on the proposed regulation was reached at EU Council level on 19 June 2015. The European Parliament must still adopt its position.

1.2. Proposal for a regulation on indices used as benchmarks in financial instruments and financial contracts

Following the detection of manipulations of some benchmarks, the European Commission presented, on 18 September 2013, a proposal for a regulation aiming to improve the functioning and governance of the benchmarks which are produced and used in the EU. Under Luxembourg Presidency, the EU Council agreed on a compromise text with the European Parliament during a trialogue meeting in Strasbourg on 24 November 2015. As a consequence, the Committee of permanent representatives in the EU Council approved the text on 9 December 2015. The proposed regulation must still be submitted to the vote of the European Parliament.

The purpose of the regulation is to establish a regulatory framework to ensure the accuracy and integrity of the indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds in the EU.

The regulation applies to:

- the provision of benchmarks through the establishment of a regulatory framework aiming to supervise the activity of benchmark administrators. Indeed, administrators will be subject to detailed governance and control requirements. They will also have to ensure compliance with certain requirements as to input data. Moreover, administrators will also be required to obtain prior authorisation/registration and will be subject to ongoing supervision by the competent authority of the country in which they are located. The regulation will also set up rules for third-country administrators that produce benchmarks used within the EU;
- the provision of input data for benchmarks, as the regulation stipulates rules regarding the code of conduct that specify the responsibilities of contributors. Moreover, contributors that are also supervised entities will be subject to governance and control requirements; and
- the use of benchmarks in the EU by supervised entities that can use, in their financial instruments and financial contracts or for measuring the performance of investment funds, only benchmarks whose EU administrators are included in the register held by ESMA or third-country benchmarks directly included in this register.

The regulation covers a large range of benchmarks. The application of its provisions must be proportionate to the type of benchmark and their vulnerability to manipulation. Indeed, the regulation introduces the principle of proportionality for the application of rules aiming at ensuring the integrity and reliability of benchmarks by categorising them into critical, significant and non-significant benchmarks. Moreover, certain rules are not applicable to the administrator or contributor for regulated-data benchmarks. Specific rules also apply to interest-rate benchmarks or commodity benchmarks.

It is important to note that the regulation will amend Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014. In addition, it will have an impact on the content of the prospectuses to be published in accordance with Directives 2003/71/EC and 2009/65/EC.

1.3. Proposal for a regulation on the prospectus to be published when securities are offered to the public or admitted to trading

The proposal for a regulation, published on 30 November 2015, aims at addressing the weaknesses of the Prospectus Directive (2003/71/EC) and at facilitating the mobilisation of capital on capital markets. The main purposes of the proposed measures are:

- to reduce the administrative burden linked to the preparation of the prospectus for all issuers, in particular SMEs, frequent issuers of securities and issuers of secondary issuances;
- to make the prospectus a more relevant information tool for potential investors, in particular for those that wish to invest in SMEs; and
- to allow increased convergence with other EU rules on disclosure.

1.4. Proposal for a regulation on the framework for money market funds

On 29 April 2015, the European Parliament reached an agreement on a compromise text for the regulation on a framework for money market funds, adopted at the end of February 2015 by the European Parliament Committee on Economic and Monetary Affairs (ECON).

The proposal for a regulation, initially published by the European Commission in September 2013, completes the existing provisions in the UCITS and AIFM Directives and applies to money market funds domiciled or marketed in Europe. It aims at establishing standards which allow increasing the liquidity of the funds and strengthening their structure.

The next step is the launch of trialogue negotiations with the EU Council and the European Commission, as soon as the EU Council has adopted its final position.

1.5. Proposal for a delegated regulation of the European Commission supplementing Directive 2009/65/EC with regard to obligations of depositaries

On 17 December 2015, the European Commission adopted a proposal for a delegated regulation specifying the implementing measures for the UCITS V Directive. This proposal for a regulation, which follows ESMA's technical advice to the European Commission of 28 November 2014 on the requirements regarding the functions of UCITS depositaries (ref.: ESMA/2014/1417), proposes a set of organisational measures to, among other things, protect UCITS assets against insolvency in the framework of a delegation of custody functions and avoid conflicts of interest and ensure independence of the management company and the UCITS depositary. As a reminder, the UCITS V Directive introduces a harmonised framework at European level, notably as regards the clarification of the missions and the responsibility of depositaries, the rules governing remuneration of managers and the administrative sanctions.

If the European Parliament or the EU Council does not object within three months, the delegated regulation will enter into force on the twentieth date following its publication in the Official Journal of the European Union. The measures will become applicable six months later.

1.6. Proposal for a regulation laying down common rules on securitisation and creating a European framework for simple, transparent and standardised securitisation and amending Directives 2009/65/EC, 2009/138/EC, 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012

Proposal for a regulation amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms

Under the Luxembourg Presidency of the EU Council, the Ministry of Finance prepared two compromise regulations relating to securitisation. Discussions in the Council centred on the two draft regulations published by the European Commission on 30 September 2015.

The first regulation aims to gather in a single text the securitisation-related provisions of diverse sectoral directives and regulations (CRR, AIFMD, EMIR, UCITS Directive and Regulation (EU) on credit rating agencies) and thereby to create a framework for simple, transparent and standardised (STS) securitisation.

The second regulation aims to amend the CRR in order to implement in European law the Basel rules on securitisation, while creating a preferential treatment for STS securitisation. The purpose of the proposal is to promote simply structured securitisations in Europe, allowing restoring confidence in order to reboost the securitisation market and, in fine, to finance the real economy with a view to fostering job creation and growth.

Under the Luxembourg Presidency, the members of the Council reached a compromise agreement on both texts in December 2015. Trialogue between the European Commission, the Council and the European Parliament on both regulations should take place in 2016.

1.7. Proposal for a directive on the activities and supervision of institutions for occupational retirement provision (recast)

In March 2014, the European Commission published a proposal for a review of Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision. This revision aims at establishing new rules for institutions for occupational retirement provision, by proposing measures to improve governance and transparency of these institutions in Europe and at promoting cross-border activity.

Trialogue between the European Parliament, the Council and the European Commission for the finalisation of the directive started at the end of February 2016. Once adopted, the Member States will have between 18 and 24 months as from the date of publication in the Official Journal of the European Union to transpose the amending directive into their national legislation.

1.8. Proposal for a regulation in order to establish a European Deposit Insurance Scheme

On 24 November 2015, the European Commission published a proposal for a regulation on the establishment of a European Deposit Insurance Scheme. With this proposal, which envisages the establishment of the third and last pillar of the Banking Union, the European Commission wishes to strengthen deposit protection, reinforce financial stability and further reduce the link between banks and their sovereigns. The proposal is based on the principle according to which the citizens' deposits will be guaranteed at euro-area level. However, it is envisaged that the mutualisation of the risks linked to deposit insurance will be progressive over three years.

In a first phase, the mechanism would consist in a re-insurance of national deposit guarantee schemes, before becoming, after three years, a co-insurance system in which the contribution of the European deposit guarantee scheme would progressively increase to finally become, in a last phase in 2024, a full European deposit guarantee scheme. The proposal includes safeguards against moral hazards and gives incentives to national schemes to manage their potential risks in a prudent way.

The proposed regulation is accompanied by a communication in which other measures are presented, aiming to reduce subsiding risks in the banking system, in parallel to the work on the proposal for the European Deposit Insurance Scheme (EDIS).

2. DIRECTIVES TO BE TRANSPOSED INTO NATIONAL LAW

2.1. Directive 2013/14/EU of 21 May 2013 amending Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision, Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) and Directive 2011/61/EU on Alternative Investment Fund Managers in respect of over-reliance on credit ratings

The purpose of draft law No 6846 on OTC derivatives, central counterparties and trade repositories and amending different laws relating to financial services, submitted to the *Chambre des Députés* on 5 August 2015, is to transpose and implement, into Luxembourg law, several European texts that have been adopted in the wake of the financial crisis with a view of establishing regulations that take risks better into account.

Thus, the purpose of the draft law is to:

- transpose Directive 2013/14/EU and to implement certain provisions of Regulation (EU) No 462/2013 of 21 May 2013 amending Regulation (EC) No 1060/2009 on credit rating agencies (CRA 3 Regulation), as these texts aim to reduce the reliance of financial players on credit rating agencies;
- implement, at national level, Regulation (EU) No 648/2012 of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EMIR); the draft law covers the appointment of the CSSF and the Commissariat aux Assurances as competent authorities under this regulation and sets down the missions and powers of these authorities to impose sanctions in this context;
- amend the law of 10 November 2009 on payment services to implement the new interoperability rules of Regulation (EU) No 648/2012, as well as the provisions of Regulation (EU) No 260/2012 of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009, to specify the principle of free choice of the depositary and to insert rules in order to ensure the proper functioning of TARGET2-Securities (T2S), the technical platform of the Eurosystems project; and
- amend several sectoral laws in order to take into account the rules regarding supervision of financial conglomerates.

2.2. Directive 2013/50/EU of 22 October 2013 amending Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading and Directive 2007/14/EC laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC

The directive was discussed in detail in point 4.3. of Chapter X "Supervision of securities markets" of the CSSF Annual Report 2013.

The draft law transposing this directive was submitted to the *Chambre des Députés* on 17 August 2015.

2.3. Directive 2014/17/EU of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010

The directive is in the process of being transposed into national law. On 4 March 2015, the CSSF submitted a preliminary transposing draft law and Grand-ducal regulation to the Minister of Finance.

2.4. Directive 2014/51/EU of 16 April 2015 amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority)

This directive should have been transposed into national law by 31 March 2015. Insofar as it falls within the CSSF's remit, the transposition will be made through the draft mentioned in point 2.2. above.

2.5. Directive 2014/56/EU of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts

The directive is further detailed in point 1. of Chapter XIII "Public oversight of the audit profession".

2.6. Directive 2014/57/EU of 16 April 2014 on criminal sanctions for market abuse (Market Abuse Directive)

The directive was discussed in detail in the CSSF Annual Report 2014. It must be transposed into national law by 3 July 2016.

2.7. Directive 2014/65/EU of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (MiFID II)

The work of the CSSF and of the ad hoc legal interpretation group on the legislation relating to financial markets resulted in the preparation of a preliminary draft law transposing MiFID II and Regulation (EU) No 600/2014 (MiFIR). On 16 October 2015, the CSSF submitted a preliminary transposing draft law to the Minister of Finance.

For further details on the main amendments introduced by MiFID II and MiFIR into MiFID (2004/39/EC), please refer to point 1.9. of Chapter XV "Banking and financial legislation and regulations" of the CSSF Annual Report 2011.

On 10 February 2016, the European Commission proposed delaying the implementation of the MiFID II package by one year, in order to take into account the technical challenge of its implementation for ESMA, the national competent authorities and market participants.

2.8. Directive 2014/91/EU of 23 July 2014 amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards depositary functions, remuneration policies and sanctions (UCITS V Directive)

The UCITS V Directive, which entered into force on 17 September 2014, was discussed in detail in the CSSF Annual Report 2014.

As a reminder, the UCITS V Directive introduces a harmonised framework at European level, notably as regards the clarification of the missions and the responsibility of depositaries, the rules governing remuneration of managers and the administrative sanctions. The Member States must transpose the UCITS V Directive into their national law within 18 months, i.e. until 18 March 2016.

The CSSF actively contributed to the preparation of the draft law No 6845 which transposes this directive and which was submitted to the *Chambre des Députés* on 5 August 2015.

2.9. Directive 2014/92/EU of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features

The purpose of the directive is to establish rules as regards the comparability and transparency of the fees to be borne by consumers with regard to their payment accounts held in the EU. Moreover, it provides for rules simplifying customer mobility within a Member State. Finally, it tends to lay down rules guaranteeing the access to payment accounts with basic features in the EU.

The directive must be transposed into national law by 18 September 2016.

2.10. Directive 2014/95/EU of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups (NFR Directive)

The NFR Directive[1] requires the companies concerned to disclose information on policies, related risks and results as regards environmental matters, social and employee-related aspects, respect for human rights, anti-corruption and bribery issues, and diversity on boards in their management reports.

The new rules only apply to large public-interest entities[2] with more than 500 employees and with a total balance sheet exceeding EUR 20 million and/or a turnover of more than EUR 40 million.

The NFR Directive leaves great flexibility to companies as regards the form in which such disclosure should take place. The European Commission will publish non-binding guidelines in December 2016 (taking into account the best current practices, at international as well as European level) in order to facilitate the disclosure of non-financial information by companies and reach harmonisation at European level.

For the purpose of publication of these guidelines, the European Commission launched the public consultation "Non-Binding Guidelines for Reporting of non-financial information by companies" on 15 January 2016 in order to collect the advice of interested persons. The comment period was open until 15 April 2016.

The NFR Directive amends Directive 2013/34/EU of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings (new Accounting Directive).

The NFR Directive must be transposed into national law by 6 December 2016 and will apply to the financial years starting 1 January 2017 or in the course of 2017. To this end, the draft law No 6868[3] was submitted to the *Chambre des Députés* on 8 September 2015.

2.11. Directive (EU) 2015/849 of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012, and repealing Directive 2005/60/EC and Directive 2006/70/EC

The directive is further detailed in point 1.1.1. of Chapter XVI "Financial crime".

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[1] The NFR Directive is part of the ambitious strategy of the European Commission to encourage corporate social responsibility.

[2] Listed companies, but also some unlisted companies, such as banks, insurance undertakings and other companies designated by Member States as public-interest entities because of their activities, size or number of employees.

[3] Draft law concerning the disclosure of non-financial information and diversity information by certain large undertakings and groups and amending various provisions relating to accounting and annual accounts of undertakings as well as to the consolidated accounts of certain forms of companies and

- transposing Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups;
- amending:
  - Title II of the law of 19 December 2002 on the trade and companies register, as well as the accounting and annual accounts of companies, as amended;
  - Section XVI of the law of 10 August 1915 on commercial companies, as amended;
  - the law of 8 December 1994, as amended, relating to:
    - * the annual accounts and consolidated accounts of insurance and reinsurance undertakings,
    - * the obligations regarding the drawing-up and publication of the accounting documents of branches of insurance undertakings incorporated under foreign law.

2.12. Regulation (EU) 2015/847 on information accompanying transfers of funds

The regulation is further detailed in point 1.1.2. of Chapter XVI “Financial crime”.

2.13. Directive (EU) 2015/2366 of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU, and repealing Directive 2007/64/EC (PSD2)

The directive was published in the Official Journal of the European Union on 23 December 2015 and entered into force on the twentieth day following its publication, i.e. on 12 January 2016.

PSD2 repeals Directive 2007/64/EC. Its purpose is to develop the European internal market of electronic payments in a technologically neutral way and to adapt the existing legal framework to innovating payment services, including, among others, online payments and mobile payments.

PSD2 facilitates and renders more secure the use of Internet payment services, notably by including within its scope the new category of payment initiation services and account information services.

Finally, PSD2 introduces a new balance as compared to the current situation between the home Member State and the host Member State for the cross-border supervision within the context of the European passport, i.e. the right of establishment and the freedom to provide services.

PSD2 must be transposed into national law by 13 January 2018.

3. LAWS AND REGULATIONS ADOPTED IN 2015

3.1. Law of 1 April 2015 establishing a Systemic Risk Board and amending the law of 23 December 1998 concerning the monetary status and the Banque centrale du Luxembourg, as amended

The purpose of the law is to implement in Luxembourg the recommendation of the European Systemic Risk Board (ESRB) of 22 December 2011 concerning the macroprudential mandate of national authorities (ESRB/2011/3), as well as the ESRB’s recommendation of 4 April 2013 on the intermediary objectives and the instruments of the macroprudential policy.

In force since April 2015, the law established in Luxembourg the Systemic Risk Board (SRB), the national macroprudential authority in charge of coordinating the implementation of the macroprudential policy through the national authorities represented on the board, with a view to contributing to safekeeping the financial stability of the Luxembourg financial system. To this end, the SRB pursues intermediary objectives and has powers to deliver advice, warnings and recommendations, which may be made public.

3.2. Regulation (EU) 2015/751 of 29 April 2015 on interchange fees for card-based payment transactions

The regulation was published in the Official Journal of the European Union on 19 May 2015 and entered into force on 8 June 2015. However, some provisions are only applicable as from 9 December 2015 and others only from 9 June 2016.

The aim of the regulation is to develop the internal market in payments, reduce the market fragmentation and level the playing field in the area of payments by card. The regulation introduces, in particular, interchange fee caps for debit and credit card payments.

Member States must designate the competent authorities and lay down rules on penalties by 9 June 2016.

3.3. Regulation (EU) 2015/760 of 29 April 2015 on European long-term investment funds (ELTIFs)

The ELTIF Regulation, published in the Official Journal of the European Union of 19 May 2015 and applicable since 9 December 2015, has already been commented upon in the CSSF Annual Reports 2013 and 2014.

As a reminder, only EU alternative investment funds which are managed by AIFMs authorised in accordance with the AIFMD may be authorised and marketed as ELTIFs.

3.4. Law of 23 July 2015 transposing Directive 2013/36/EU (CRD IV) and Articles 2 and 3 of Directive 2011/89/EU as regards the supplementary supervision of financial entities in a financial conglomerate (FICOD 1)

This law transposes into Luxembourg law the provisions of Directive 2013/36/EU (CRD IV) which was commented upon in the CSSF Annual Report 2014. Moreover, it repeals the legal provisions which have been superseded by the entry into force (and the direct applicability in national law) of Regulation (EU) No 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (CRR).

CRD IV mainly amends the law of 5 April 1993 on the financial sector. Moreover, in the context of its implementation, it was supplemented for the more technical aspects by CSSF regulations.

Some of the key amendments made to the law of 5 April 1993 on the financial sector are the following:

- introduction of capital buffer requirements (in addition to the minimum ratios imposed by the CRR) providing additional protection to the institutions, thereby contributing to the maintenance of the high level of own funds that characterises Luxembourg institutions, and to the financial stability of the financial sector as a whole;
- enhancement of internal governance requirements in order to prevent the impact that poorly designed corporate governance systems may have on sound risk management at the level of the institutions concerned;
- introduction of provisions relating to the remuneration policies of certain categories of staff, including in particular a maximum ratio of 100%, or 200% in exceptional cases, which limits the variable component (boni, stock options, etc.) of the remuneration compared to the non-variable component of the remuneration;
- adaptation of the administrative monetary penalty regime to the minimum harmonisation requirements included in CRD IV;
- targeted amendments to the authorisation conditions for credit institutions and, in particular, the requirement that the capital base of credit institutions must henceforth be constituted of a fully paid-up share capital of EUR 8.7 million.

3.4.1. CSSF Regulation N° 15-01 on the calculation of institution-specific countercyclical capital buffer rate

The purpose of CSSF Regulation N° 15-01 is to specify the calculation of the countercyclical buffer rate specific to CRR institutions and to transpose the provisions of Article 140 of CRD IV into national law.

3.4.2. CSSF Regulation N° 15-02 relating to the supervisory review and evaluation process that applies to CRR institutions

CSSF Regulation N° 15-02 relating to the supervisory review and evaluation process that applies to CRR institutions (Pillar II Regulation) supplements the CRD IV transposition process by laying down, in accordance with CRD IV, the supervisory review and evaluation process (Pillar II provisions) for institutions falling within the scope of CRD IV. As these provisions were deemed too granular to be inserted into the law of 23 July 2015, the CSSF preferred to transpose them through a CSSF regulation.

3.4.3. CSSF Regulation N° 15-04 on the setting of a countercyclical buffer rate

In force since 1 January 2016, CSSF Regulation N° 15-04 reflects the decision taken by the CSSF, acting as designated authority, concerning the setting of a countercyclical buffer rate of 0% after taking into account the recommendation of the Systemic Risk Board of 16 November 2015, and after consultation with the BCL.

The activation and setting of the countercyclical buffer rate are based on a certain number of indicators, including the following main indicators:

- the credit-to-GDP ratio, calculated based on banking loans granted to Luxembourg households and non-financial undertakings;
- the deviation of the credit-to-GDP ratio from its long-term trend;
- the countercyclical buffer guide calculated according to Recommendation ESRB/2014/1.

As these indicators do not reveal excessive growth of loans to the economy, other variables that allow flagging an accumulation of systemic risks linked to an excessive growth of loans have been analysed and demonstrated that, to date, these risks remain moderate in Luxembourg, thereby justifying a 0% countercyclical capital buffer rate.

3.4.4. CSSF Regulation N° 15-05 on the exemption of investment firms qualifying as small and medium-sized enterprises from the requirements to maintain a countercyclical capital buffer and a capital conservation buffer

CSSF Regulation N° 15-05 was issued by the CSSF acting as designated authority, following the opinion of the Systemic Risk Board of 16 November 2015 and after consultation with the BCL. It clarifies the definition of investment firms qualifying as small and medium-sized enterprises and exempts them from the requirements to maintain a countercyclical capital buffer and a capital conservation buffer insofar as such an exemption does not threaten the financial stability of the national financial system.

3.4.5. CSSF Regulation N° 15-06 concerning systemically important institutions authorised in Luxembourg

Based on the opinion of the Systemic Risk Board of 16 November 2015, the CSSF identified six CRR institutions authorised in Luxembourg as "other systemically important institutions" within the meaning of Article 59-3 of the law of 5 April 1993 on the financial sector. This identification was based on the methodology described in the EBA guidelines of 16 December 2014 and took place after consultation with the BCL.

3.5. Law of 24 July 2015, amending, among others, the law of 12 November 2004 on the fight against money laundering and terrorist financing[4]

The law is further detailed in point 1.2.1. of Chapter XVI "Financial crime".

3.6. Law of 25 July 2015 on electronic archiving and amending (1) Article 1334 of the Civil Code; (2) Article 16 of the Commercial Code and (3) the law of 5 April 1993 on the financial sector, as amended

The law introduces, among other things, two new support PFS statuses, namely the dematerialisation service providers (PSDC-D) in charge of dematerialising documents, and the conservation service providers (PSDC-C) in charge of conserving digital documents with probative value for Luxembourg or foreign entities of the financial and insurance sector.

The law is further detailed in point 3.2.10. of Chapter VI "Supervision of PFS".

[4] Law of 24 July 2015 amending:

- the law of 12 February 1979 on value added tax, as amended;
- the law of 17 December 2010 laying down the excise duties and similar taxes on energy products, electricity, manufactured tobacco, alcohol and alcoholic drinks, as amended;
- the law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended.

3.7. Grand-ducal Regulation of 5 August 2015 amending the Grand-ducal Regulation of 1 February 2010 providing details on certain provisions of the law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended

The regulation is further detailed in point 1.2.2. of Chapter XVI "Financial crime".

3.8. Regulation (EU) No 2015/2365 of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012

Regulation (EU) No 2015/2365, published in the Official Journal of the European Union on 23 December 2015, aims at enhancing transparency of securities financing markets (transactions under repurchase agreement, securities lending, securities sales with right of repurchase, margin lending operations, total return swaps) and at regulating the reuse of financial instruments received under a collateral arrangement. Among others, the regulation provides for the obligation for UCITS and AIFs managed by AIFMs to disclose in the fund prospectus or in pre-contractual documents a set of information such as (i) a general description of the securities financing transactions and total return swaps used by the fund and the rationale for their use, (ii) overall data for each type of transaction, and (iii) information on counterparties, guarantees and risks.

The regulation came into force on 12 January 2016, but the implementation of some of its provisions will be phased in.

3.9. Law of 18 December 2015[5] and Grand-ducal Regulation of 18 December 2015[6] on annual accounts and consolidated accounts

The law of 18 December 2015 introduces into Luxembourg law, on the one hand, the new provisions introduced by Chapter 10 of Directive 2013/34/EU[7] (hereinafter the new Accounting Directive) on the transparency of payments made by undertakings to governments (country-by-country reporting) whose finality is the fight against corruption in third countries rich in natural resources (minerals, oil, natural gas or primary forests), and, on the other hand, the mandatory provisions of the (a minima) "accounting component" of said directive, thus amending the Luxembourg accounting law.

Grand-ducal Regulation of 18 December 2015 includes the layouts for balance sheets and profit and loss accounts applicable to companies and which comply with the new Accounting Directive.

The provisions of the law and of the Grand-ducal regulation apply for the first time to annual and consolidated accounts as well as to relating reports for the financial years starting on 1 January 2016 or in the course of the calendar year 2016.

3.10. Law of 18 December 2015 on the failure of credit institutions and certain investment firms

The law of 18 December 2015 transposes Directive 2014/59/EU of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Directive 82/891/EEC as well as Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU and Regulations (EU) No 1093/2010 and (EU) No 648/2012 (BRRD), as well as Directive 2014/49/EU of 16 April 2014 on deposit guarantee schemes (DGSD), into Luxembourg law.

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[5] Law of 18 December 2015 amending, in view of the transposition of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC:

(1) the law of 10 August 1915 on commercial companies, as amended;

(2) Title II of the law of 19 December 2002 on the trade and companies register, as well as the accounting and annual accounts of companies, as amended;

(3) Title II of Book I of the Commercial Code.

[6] Grand-ducal Regulation of 18 December 2015 determining the form and content of the layouts for the balance sheet and the profit and loss account and implementing Articles 34, 35, 46 an 47 of the law of 19 December 2002 on the trade and companies register, as well as the accounting and annual accounts of companies, as amended.

[7] Directive 2013/34/EU of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC.

In the interest of readability and coherence of texts, the law of 18 December 2015 maintained, in the law of 5 April 1993 on the financial sector, the provisions governing the going concern of the credit institutions and investment firms and regrouped, in a single legal text, the provisions governing the gone concern of the credit institutions and certain other professionals of the financial sector. Thus, the law of 5 April 1993 now only deals with the conditions for the taking-up and exercise of the activity of credit institutions and other professionals of the financial sector and their prudential supervision in going concern matters, while the law of 18 December 2015 deals with credit institutions and other professionals of the financial sector in the event of crisis.

The law of 18 December 2015 includes three parts, followed by a final part comprising the amending provisions. The first part, which transposes the resolution part of the BRRD, governs the resolution of credit institutions and certain investment firms. Resolution is an administrative measure the purpose of which is to restructure a bank which has serious financial difficulties in order to ensure continuity of its critical activities, i.e. the activities the discontinuance of which is likely to lead to the disruption of services that are essential to the real economy, such as taking deposits or granting credit, or to disrupt financial stability.

Thus, the creation of a resolution framework for banks and investment firms is an additional step towards the establishment of the Banking Union. The latter is a vital element of the crisis management strategy of the EU and is based on the Single Supervisory Mechanism (transfer to the European level of specific key missions as regards the supervision of banks established in the Member States having adopted the euro) and the Single Resolution Mechanism (restructuring of banks in distress at European level supported by a European Single Resolution Fund).

The BRRD provides the authorities concerned with tools and grants them powers to deal with crises and solve the failure of an institution in an orderly way, while minimising the exposure of taxpayers to losses. It establishes the recovery and resolution of credit institutions and defines the resolution instruments and the cooperation process among EU Member States and between EU Member States and third countries.

The law of 18 December 2015 distinguishes three stages for recovery and resolution of credit institutions:

- preparation and prevention;
- early intervention; and
- resolution tools and powers.

Resolution takes place if the preventive measures laid down in the recovery plan to be established by the institution and early intervention do not allow avoiding that the situation deteriorates to the point where the bank fails or is likely to fail. If it is certain that no other measure would allow avoiding the failure of the bank and where the public interest so justifies, the resolution authority will take control of the institution and take resolution measures.

The main resolution tools are:

- sale of activities which allows authorities to sell the whole or parts of the failing bank to another bank;
- use of a bridge bank which means identifying sound assets or key functions of the bank and separating them to create a new bank. The old bank, with its toxic assets or non-key functions, is then liquidated in the context of a normal insolvency procedure;
- separation of assets that allows transferring the bank's toxic assets to an asset management structure (bad bank) so as to clean the bank's balance sheet;
- bail-in which allows recapitalising the bank by cancelling or diluting its shares and by writing down its debts or converting them to shares. The shareholders and creditors will be called upon to contribute, in an orderly manner and according to strict hierarchy, to the costs resulting from restructuring and resolution in order to restore the viability of the stressed institution.

The bail-in tool will be a central element of any bank resolution. This tool may be used unilaterally or in conjunction with one or several other instruments of the resolution toolbox described above.

Moreover, the law of 18 December 2015 establishes the CSSF as Luxembourg's resolution authority. In order to prevent any conflict of interest between the supervisory and resolution functions in accordance with the

BRRD, the resolution function as provided for under the BRRD is exercised by a new internal CSSF body called "Resolution Board". This body will rely on the department "Resolution" which operates under the aegis of the CSSF and which will perform the day-to-day tasks related to the resolution function. In order to ensure that the resolution function is independent within the CSSF, the department "Resolution" is managed by a separate Director who has a separate budget and the power to hire staff. This Director is not a member the CSSF's Executive Board, but may attend the meetings of the CSSF's Executive Board as an observer. This governance model meets the requirement of the BRRD to avoid conflicts of interest between the supervisory and resolution functions. In addition, it has the merit of avoiding the creation of a new public institution, which considerably reduces operational costs and minimises the risk of task duplication.

The second part of the law of 18 December 2015 gathers the judicial reorganisation and liquidation measures for credit institutions and other professionals of the financial sector. This corresponds in fact to the former Part IV of the law of 5 April 1993 on the financial sector by adding ad hoc adjustments to make it consistent with the BRRD.

The third part of the law of 18 December 2015 deals with the depositor and investor protection schemes. It transposes the DGSD into Luxembourg law, reforms the Luxembourg deposit guarantee scheme and brings the investor compensation scheme in line with the new institutional architecture. Part IVa "Deposit guarantee schemes in credit institutions" and Part IVb "Compensation schemes for investors in credit institutions and investment firms" of the law of 5 April 1993 on the financial sector have thus been repealed.

The major innovation is the replacement of the private ex post financed scheme, the Association pour la Garantie des Dépôts, Luxembourg (AGDL), by a public ex ante financed scheme. The deposit guarantee scheme, the Fonds de garantie des dépôts Luxembourg (FGDL), is a public institution the purpose of which is to ensure depositor compensation in the event of deposits being unavailable. The FGDL collects the contributions owed by the member institutions, manages the financial means and reimburses depositors. The function of designated authority, as defined by the DGSD, will be assumed by a new internal body of the CSSF, the Conseil de protection des déposants et des investisseurs (CPDI) (Council for Protection of Depositors and Investors). The CPDI exercises the missions and powers assigned to it by Part Three of the law of 18 December 2015. For these missions, the CPDI will be the senior executive authority of the CSSF, and not the Executive Board. In order to facilitate the decision-making and the repayment of depositors, the members of the CPDI are also members of the management committee of the FGDL. Operational tasks linked to the missions of the CPDI and those of the FGDL are carried out by a department of the CSSF. The Director in charge of this department chairs the CPDI and the FGDL management committee.

Moreover, the CPDI also carries out the functions that Directive 97/9/EC of 3 March 1997 on investor-compensation schemes attributes to these systems. Thus, the CPDI manages and administers the Luxembourg scheme called Système d'Indemnisation des Investisseurs Luxembourg (SIIL) (Investor Compensation Scheme Luxembourg) and relies on the aforementioned CSSF department for operational tasks.

As a consequence, the new FGDL system will be fed on an ex ante basis by the annual contributions of the member institutions. Although the DGSD sets down that the deadline to reach the target level is 3 July 2024, the law of 18 December 2015 imposes that the FGDL's target level, i.e. 0.8% of the amount of guaranteed deposits of the member institutions, be reached by 31 December 2018 at the latest. Furthermore, there will be a buffer of additional financial means of the same amount to be financed by annual contributions by member institutions over a period of eight years, once the target level defined in the DGSD will be reached. The legislator considered that Luxembourg as international financial centre should have a deposit protection scheme with sound financial assets. As the vast majority of member institutions have made provisions in the past in order to meet their commitments towards the AGDL, they will, in principle, not encounter difficulties in reaching the target level laid down in the DGSD within three years (from 2016 to 2018).

Other innovative elements of the FGDL are:

- the shortening of the repayment period from 20 working days to seven working days as from 1 June 2016. The purpose is to guarantee that depositors recover as fast as possible and automatically their guaranteed deposits, in case of failure of their bank, in order to strengthen both their protection and the stability of the banking system;

- an additional protection exceeding EUR 100,000 for deposits resulting from specific life events. Depositors are protected up to EUR 2.5 million during one year for deposits that originate from the sale of private residential property, inheritance, divorce arrangement or insurance or compensation lump-sum payments;
- the harmonisation, to a large extent, of the covered deposits for the purpose of facilitating the repayment of depositors within a short timeframe;
- an enhanced information obligation for member institutions towards depositors. Thus, the member institutions must provide a standard information sheet, as set out in Annex 2 of the law, to the depositors before entering into a contract of deposit-taking. Moreover, they must provide depositors with a confirmation in their statements of account, where applicable, that their deposits are eligible, with a reference to the standard information sheet.

As regards the new investor compensation scheme SIIL, it should be noted that the provisions of the law of 18 December 2015 are in essence a transfer of Part IVb of the law of 5 April 1993 on the financial sector. Indeed, Directive 97/9/EC remains applicable and the Luxembourg SIIL remains financed on an ex post basis. Adjustments have however been made to ensure consistency with the new legal status and the governance of the SIIL.

The fourth and last part of the law of 18 December 2015 consists of amending provisions. Firstly, it transposes the “recovery” part of the BRRD by inserting a new Part IV into the law of 5 April 1993 on the financial sector. The “recovery” part of the BRRD is in line with going concern situations and is the extension of the tools and measures available to the authorities for prudential supervision. This part also transposes the residual provisions of the BRRD, i.e. the provisions other than those relating to the “recovery” and “resolution” parts. Finally, it defines the new governance structure of the CSSF as described above, by introducing it into the law of 23 December 1998 establishing a financial sector supervisory commission (Commission de surveillance du secteur financier).

ANNEX

LIST OF ABBREVIATIONS

LIST OF ABBREVIATIONS

2010 Law	Law of 17 December 2010 relating to undertakings for collective investment
AGDL	Association pour la garantie des dépôts, Luxembourg - Deposit Guarantee Association Luxembourg
AIF	Alternative Investment Fund
AIFM Law	Law of 12 July 2013 on alternative investment fund managers
AIFM	Alternative Investment Fund Manager
AML/CFT	Anti-Money Laundering and Counter-Terrorist Financing
ASSEP	Pension savings association
BCL	Banque centrale du Luxembourg - Luxembourg Central Bank
BRRD	Bank Recovery and Resolution Directive - Directive 2014/59/EU of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms
BTS	Binding Technical Standards
COREP	Common Reporting
CPDI	Conseil de protection des déposants et des investisseurs – Council for the Protection of Depositors and Investors
CRD IV	Capital Requirements Directive - Directive 2013/36/EU of 26 June 2013 on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms
CRR	Capital Requirements Regulation - Regulation (EU) No 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms
CSDR	Central Securities Depositories Regulation - Regulation (EU) No 909/2014 of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories
CSSF	Commission de Surveillance du Secteur Financier - Financial sector supervisory commission
DGSD	Deposit Guarantee Schemes Directive - Directive 2014/49/EU of 16 April 2014 on deposit guarantee schemes
EAIG	European Audit Inspection Group
EBA	European Banking Authority
EC	European Community
ECB	European Central Bank
EEA	European Economic Area
EIOPA	European Insurance and Occupational Pensions Authority
ELTIF	European Long Term Investment Fund
EMI	Electronic Money Institution
EMIR	European Market Infrastructure Regulation
ESFS	European System of Financial Supervision
ESMA	European Securities and Markets Authority
ESRB	European Systemic Risk Board
EU	European Union
EUR	Euro
FATF	Financial Action Task Force
FCP	Common fund
FGDL	Fonds de garantie des dépôts Luxembourg - Deposit Guarantee Fund Luxembourg

FINREP	Financial Reporting
FIU	Financial Intelligence Unit
FSB	Financial Stability Board
IAASB	International Auditing and Assurance Standards Board
IAS	International Accounting Standards
IASB	International Accounting Standards Board
ICAAP	Internal Capital Adequacy Assessment Process
IESBA	International Ethics Standards Board for Accountants
IFM	Investment Fund Manager
IFRS	International Financial Reporting Standards
ILAAP	Internal Liquidity Adequacy Assessment Process
IML	Institut Monétaire Luxembourgeois - Luxembourg Monetary Institute (1983-1998)
IOSCO	International Organization of Securities Commissions
IRE	Institut des réviseurs d'entreprises - Luxembourg institute of registered auditors
ISQC	International Standard on Quality Control
JST	Joint Supervisory Team
LCR	Liquidity Coverage Requirement
LPS	Law of 10 November 2009 on payment services
ManCo 15	Management company set up under Chapter 15 of the 2010 Law
ManCo 16	Management company set up under Chapter 16 of the 2010 Law
MiFID	Markets in Financial Instruments Directive
MiFIR	Markets in Financial Instruments Regulation
MTF	Multilateral Trading Facility
NAV	Net Asset Value
NSFR	Net Stable Funding Requirement
OECD	Organisation for Economic Co-operation and Development
PFS	Professional of the Financial Sector
PIE	Public-Interest Entity
PSD2	Directive (EU) 2015/2366 of 25 November 2015 on payment services in the internal market
RTS	Regulatory Technical Standards
SBL	Société de la Bourse de Luxembourg
SEPCAV	Pension savings company with variable capital
SIAG	Investment company which has not designated a management company within the meaning of Article 27 of the 2010 Law
SICAF	Investment company with fixed capital
SICAR	Investment company in risk capital
SICAV	Investment company with variable capital
SIF	Specialised Investment Fund
SIIL	Système d'indemnisation des investisseurs Luxembourg - Investor Compensation Scheme Luxembourg
SME	Small and Medium-sized Enterprises
SREP	Supervisory Review and Evaluation Process
SRM	Single Resolution Mechanism
SRP	Supervisory Review Process

SSM	Single Supervisory Mechanism
UCI	Undertaking for Collective Investment
UCITS	Undertaking for Collective Investment in Transferable Securities
VaR	Value-at-Risk
XBRL	eXtensible Business Reporting Language

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