

The background of the slide is a photograph of several modern skyscrapers with glass facades, taken from a low angle looking up. The scene is dimly lit, suggesting dusk or dawn, with a dark blue sky. The buildings' glass reflects the ambient light and each other.

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Formation process for Luxembourg unregulated funds

Depending on the profile of the target investors, the asset class and the geographic scope and strategy for the marketing, the following investment vehicles may be considered:

(i) the alternative investment fund (**AIF**) subject to – depending on the regime applicable to its investment manager all or some - provisions of the Luxembourg law of 12 July 2013 on alternative investment fund managers, as amended (the “**AIFM Law**”); and

(ii) the reserved alternative investment fund (**RAIF**) subject to the Luxembourg law of 23 July 2016, on reserved alternative investment funds, as amended (“**RAIF Law**”) and the AIFM Law.

RAIFs must be managed by an authorised alternative investment fund manager (“**AIFM**”) within the meaning of the AIFM Law.

AIFs must be managed by an AIFM that is authorised or registered depending on the amount of their assets under management and the investment policy.

RAIF and AIF are unregulated investment funds that are not subject to prior authorisation and supervision of the Luxembourg Supervisory Authority (*Commission de Surveillance du Secteur Financier* - **CSSF**). They will need to appoint service providers either for some administrative functions (e.g. transfer and registrar agency, registered address, directorship services, accounting services, etc.) or functions in compliance with the AIFM Law (e.g. AIFM, depositary, auditor and AML/KYC officer).

RAIF and AIF may be established under various legal forms, the most popular ones being the special limited partnership (*société en commandite spéciale*, SCSp), the common limited partnership (*société en commandite simple*, SCS) and the partnership limited by shares (*société en commandite par actions*, SCA).

Each of the above mentioned Luxembourg partnerships requires at least two partners, a limited partner (*associé commanditaire*) and a general partner (*associé commandité*), where the latter typically manages the partnership and is incorporated under the form of a Luxembourg private limited liability company (*société à responsabilité limitée*, SARL).

1. The formation process of the general partner (GP) encompasses inter alia the following steps:

- Opening of a bank account with a Luxembourg credit institution (or a Luxembourg branch of an EU credit institution).
- Payment of the minimum share capital (EUR 12,000 for a SARL).
- Receipt of the “blocking certificate” from the bank.
- Preparation of the articles of association of the GP (the “**Articles**”) and the relating KYC declarations / documents identifying and verifying the ultimate beneficial owners (“**UBO**”).
- Coordination of a meeting with a Luxembourg notary notarizing the Articles (personal attendance is not required). The GP will be in existence and fully operational upon signature of the deed by the notary.
- Deblocking of the minimum share capital paid on the bank account - upon incorporation respective certificate is issued by the notary to the bank.
- Registration of the Articles with the Luxembourg trade and companies register (“**RCS**”) – handled by the notary upon incorporation.
- Registration of the UBOs with the Luxembourg beneficial owners register (“**RBE**”).

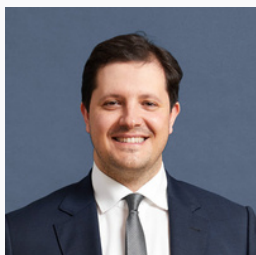
2. The formation process of the RAIF and AIF depends on its legal form and regulatory regime and encompasses inter alia the following steps:

- Opening of a bank account with a Luxembourg credit institution (or a Luxembourg branch of an EU credit institution) for SCS / SCSp is not strictly necessary to establish the fund, but it is essential for accepting investors' contributions.
- Establishment of the fund further to finalisation of the fund documentation and the necessary service providers agreements. RAIF and AIF can be established relatively swiftly by means of private seal or notarial deed for SCS / SCSp and notarial deed for SCA¹ allowing for a smooth and timely market entry. The fund will be in existence upon execution of the LPA (SCSp and SCS) or signature of the deed by the notary (SCA, SCS/SCSp).
- For an AIF to be managed by a registered AIFM, a CSSF submission of the AIFM registration application package. The registration process typically takes between three and eight weeks.
- For a RAIF, holding of a meeting with the notary to acknowledge the establishment of the fund under the RAIF regime, followed by sending a letter to the RCS re. the registration of the fund on the RAIF list.
- In the case of SCSp and SCS, filing with the RCS an excerpt of the limited partnership agreement, upon which the RCS will allocate a registration number to the fund.
- Registration of the UBO of the fund with the RBE.
- Completion of corporate approvals for the launching the fund, formally appointing the service providers.
- Execution of the service providers agreements.

¹ For formalities relating to the incorporation of a SCA, please refer to the respective steps in section 1 (formation of the GP).

Contacts

If you have specific questions and/or requests on this topic, feel free to contact our experts:



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