

# HOW TO SET UP

## A UCITS FUND

### DESCRIPTION

An Undertaking for Collective Investment in Transferable Securities (UCITS) is an investment fund that meets the criteria laid down by EU Directives to be eligible for sale in EU Member States.

### LEGAL FORM

A UCITS may be constituted as:

- a common contractual fund (*fonds commun de placement* - FCP). The FCP has no legal personality and must be managed by a Luxembourg management company (*société de gestion*);
- an open ended investment company (*société d'investissement à capital variable* - SICAV). A SICAV must either appoint a management company or designate itself as "self-managed".

The UCITS may be set up as a single fund or as an umbrella fund with multiple compartments. The constitutional documents must expressly provide for that possibility and the prospectus must describe the investment policy of each compartment.

### SUPERVISORY AUTHORITY

The supervisory authority is the *Commission de Surveillance du Secteur Financier* (CSSF).

### AUTHORISATION REQUIREMENT

A UCITS must be authorised by the CSSF before commencing its activity.

### LEGAL FRAMEWORK

UCITS are governed by the Luxembourg law of 17 December 2010 (2010 Law) which implemented EU Directive 2009/65/EC. Further amendments will be made in the coming months following the adoption of EU Directive 2014/91/EU.

### CENTRAL ADMINISTRATION, MANAGEMENT COMPANY, DEPOSITARY

The central administration of a UCITS must be in Luxembourg. UCITS can be managed by a Luxembourg management company or by a management company based in another EU Member State.

A common fund must be managed by a management company, whereas a SICAV may either be self-managed or designate a management company.

SICAVs may only manage assets of their own portfolio and may not manage assets on behalf of a third party.

A Luxembourg UCITS must appoint a Luxembourg depositary which is among other things responsible for the safekeeping of the fund's assets.

### PROFESSIONAL STANDING AND EXPERIENCE

The conducting officers of the UCITS and of the depositary must be of good repute and have sufficient experience in relation to the type of UCITS concerned. "Conducting officers" (*dirigeants*) are persons who represent the UCITS or the depositary or who effectively determine the conduct of the activities of the UCITS.

### EXTERNAL AUDITING

The annual report must be audited by an authorised external auditor with appropriate professional experience. The auditor is appointed and remunerated by the UCITS.

### CAPITAL BASE

The net assets of a FCP may not be less than EUR 1,250,000. This must be reached within a period of six months from its authorisation. The minimum capital of a SICAV which has not designated a management company must be EUR 300,000 at the time of authorisation. The capital of a SICAV must in either case reach EUR 1,250,000 within 6 months from its authorisation.

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## **AUTHORISATION PROCEDURE**

The requirements for authorisation are set out in Chapter 19 of the 2010 Law.

The draft documents and information to be submitted to the CSSF for approval are set out in Articles 129-132 and 150-163 of the 2010 Law and Chapter K of CSSF Circular 91/75. The contents of the full prospectus are set out in Schedule A of Annex I of the 2010 Law and in Chapter L of CSSF Circular 91/75. Where a SICAV is self-managed, the application must be accompanied by a description of its organisational structure.

The above-mentioned documents and information are generally compiled and submitted to the CSSF with the assistance of a firm of lawyers/accountants and/or a bank in Luxembourg.

Authorised UCITS are entered by the CSSF on a list which is published in the official gazette (the Mémorial).

A UCITS may start business as soon as authorisation has been granted.

### **Useful information sources**

[www.cssf.lu](http://www.cssf.lu)

*Commission de Surveillance du Secteur Financier*  
(Luxembourg financial supervisory authority)

[www.alfi.lu](http://www.alfi.lu)

Association of the Luxembourg Fund Industry