Reserved Alternative Investment Funds (RAIF)

Further to the adoption of bill number 6929 by the Luxembourg Parliament on 14 July 2016, the law introducing the "reserved alternative investment funds" - RAIF (fonds d'investissements alternatifs réservés - FIAR) will enter into force three days following its publication in the Luxembourg Official Gazette (the "Law").

The Law creates a new form of unregulated alternative investment fund inspired largely by specialized investment funds (SIFs) risk capital investment companies (SICARs) and , but that is **not subject to the authorization / supervision of the Luxembourg regulator** (CSSF) and that benefits from the structuring flexibility available to SIFs and SICARs. The RAIF does, however, require **management by an authorized external alternative investment fund manager** – AIFM (whether in Luxembourg or in another EU Member State, and, at a later stage, outside of the EU, subject to application of Art. 66 of AIFMD), and benefits from all the advantages of the AIFMD passport.

The main features of the RAIF are the following:

- As is the case for SIFs and SICARs, **only well-informed investors are eligible to invest** in the RAIF (i.e. institutional investors, professional investors, and those investing at least EUR 125,000);
- The RAIF can take any legal form (contractual form, company or partnership);
- It may have variable or fixed capital (at least EUR 1,250,000);
- There is no restriction on eligible assets, but the RAIF is subject to risk diversification (unless its investment policy is limited to risk capital investments);
- Multiple compartments (umbrella funds), each with its own investment / distribution policies and distinct investors. Share classes are also permitted;
- The vehicle would enjoy flexibility regarding subscription and redemption of shares and distribution of profits;
- Depending on its legal form and investment policy, the vehicle benefits from the favorable tax regime applicable to partnerships, SIFs and SICARs. It is thus either i) tax transparent or ii) to an annual subscription tax of 0.01% computed on its net asset value or, iii) to Luxembourg income tax (allowing tax treaty benefits) with an exemption regarding income and gains deriving from securities and funds to be invested in risk capital. No withholding tax is levied by the RAIFs on dividend distribution ore redemption of shares irrespective of its tax treatment ;
- Central administration can be delegated to a Luxembourg-based AIFM;
- A Luxembourg depositary must be appointed;
- The accounting information included in the annual report of the RAIF must be audited by a Luxembourg authorized external auditor.

This new vehicle thus avoids the double regulation issue

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faced by SIFs and SICARs. It is likely to be attractive to investors willing to forego the additional protection provided by the double licensing regime (at the product level and at the AIFM level) in order to improve time-to-market and reduce the supplemental costs that such regulation involves.

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