

## Capital Markets - Luxembourg

### Draft bill deposited for Alternative Investment Fund Managers Directive

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October 23 2012

On August 24 2012 a draft bill was published with the main purpose of transposing into Luxembourg law the EU Alternative Investment Fund Managers (AIFM) Directive.

In addition, the bill introduces a new category of financial sector professionals to the April 5 1993 law on the financial sector.

These "professional custodians of assets other than financial instruments", which are neither credit institutions nor investment firms, will be allowed to act as depository for alternative investment funds (ie, in any non-Undertakings for Collective Investment in Transferable Securities funds) offering no redemption rights during a period of five years from the date of the initial investments, and which generally do not invest in financial instruments that must be held in custody but do invest in issuers or non-listed companies in order to potentially acquire control over such companies.

Such professionals must be companies with a minimum share capital of €500,000 and are subject to the authorisation of the minister responsible for the Commission for Supervision of the Financial Sector.

Further, the bill introduces the obligation for managers (within the meaning of Article 28 (8) of the 1993 law) of alternative investment funds to comply with the requirements stemming from the AIFM Directive. However, those pursuing such an activity before July 22 2013 will benefit from grandfathering provisions until July 22 2014.

The bill, which is of major importance for the Luxembourg funds sector, and the financial sector in general, is still to be discussed by Parliament. Until it is fully adopted, amendments may still be proposed by various bodies that advise on the proposed law.

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