

Capital Markets - Luxembourg

CSSF requires self-assessment for alternative investment fund managers

Contributed by **NautaDutilh Avocats Luxembourg**

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The law of July 12 2013 relating to alternative investment fund managers (AIFMs), which is referred to as the 'AIFM Law' and implements the EU AIFM Directive (2011/61/EC) in Luxembourg, entered into force on July 15 2013 (for further details please see "[AIFM Directive implementation: another reason to choose Luxembourg](#)").

On July 18 2013 the Luxembourg regulatory authority of the financial sector (CSSF) issued Press Release 13/32, which states that any legal person established in Luxembourg that potentially qualifies as an AIFM under the AIFM Law must perform a self-assessment in order to determine:

- whether it is an AIFM within the meaning of the AIFM Law, keeping in mind that:
 - an external manager⁽¹⁾ of an AIFM qualifies as an external AIFM; and
 - a non-regulated alternative investment fund, Part II fund, specialised investment fund or risk capital investment company that has not chosen to appoint an external manager qualifies as an internal AIFM; and
- whether it is subject to authorisation or registration in accordance with the following provisions of the AIFM Law:
 - Luxembourg AIFMs existing and performing activities within the meaning of the AIFM Law before July 22 2013 and which must be authorised under the AIFM Law (ie, AIFMs with aggregate assets under management that exceed the €100 million/€500 million⁽²⁾ threshold referred to in Article 3(2) of the law and which are not excluded or exempted under the law) must apply for authorisation as an AIFM by July 22 2014 by using the authorisation form available on the CSSF's website (www.cssf.lu/aifm); and
 - Luxembourg AIFMs existing and performing activities within the meaning of the AIFM Law before July 22 2013 and which must be registered under the AIFM Law (ie, small AIFMs with aggregate assets under management that do not exceed the €100 million/€500 million threshold referred to above and which do not opt in under the AIFM Law) must register immediately with the CSSF by using the registration form available on the CSSF's website.

If the legal person in question is an AIFM according to this assessment, it must send the following information by email to the CSSF (aifm@cssf.lu) by August 16 2013:

- the name of the AIFM;
- its address;
- whether it is an internal or external AIFM; and
- whether it must be registered with or authorised by the CSSF.

In order to perform the self-assessment, it may be helpful to refer to the CSSF's frequently asked questions concerning the AIFM Law of July 19 2013 (also available at www.cssf.lu/aifm).

For further information on this topic please contact [Josée Weydert](#), [Jean-Florent Richard](#) or [Christophe Joosen](#) at [NautaDutilh Avocats Luxembourg](#) by telephone (+352 26 12 29 1), fax (+352 26 68 43 31) or email (josee.weydert@nautadutilh.com, jean-florent.richard@nautadutilh.com or christophe.joosen@nautadutilh.com).

Endnotes

⁽¹⁾ 'External manager' refers to the legal entity appointed by the alternative investment fund to manage it.

⁽²⁾ The €100 million threshold applies to assets of alternative investment funds that include those acquired through the use of leverage. The €500 million threshold applies

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to assets of alternative investment funds that are not leveraged and have no exercisable redemption rights for a period of five years from the date of the initial investment in each alternative investment fund.

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