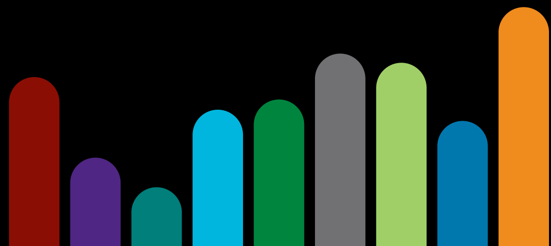

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Luxembourg Fund Services 2018

Innovation creates template for solid post-Brexit growth

RAIF: Creative way of investing in tomorrow's world

Grand Duchy provides global distribution toolbox

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Luxembourg deepens its alternative fund roots

By James Williams

Luxembourg's funds industry enjoyed a good period of growth last year, a period during which assets under management grew, on average by 15 per cent, asset flows grew by 5 per cent, profits grew by 10 per cent, while margins were broadly maintained somewhere close to 37 per cent.

As of August 2018, total fund AUM in Luxembourg stood at EUR4.27 trillion, up 7.15 per cent year-on-year. Interestingly, US fund sponsors account for the largest market share, equivalent to 20 per cent of total AUM, followed by Great Britain (17.6 per cent), Germany (14. 4 per cent) and Switzerland (13.7 per cent).

On the back of this upward trajectory, the next 12 months will be interesting as the EU prepares for life without the UK. Then there are global macro pressures to consider, specifically what impact the US/China trade war could have on global economic markets, and the impact that a rising rate regime in the US could have on global equity markets.

These are all known unknowns at this stage. One cannot speculate as to how the cards may fall. But at this point in time, Luxembourg stands in a strong position, where recent product and regulatory updates have helped to make it even more attractive to global fund sponsors wishing to do business under the AIFM Directive, and garner new European institutional capital.

Arne Bolch is Partner at GSK Stockmann's Luxembourg office. In his view, Brexit is unlikely to make a lot of UK fund managers relocate to Luxembourg: "However, I have a feeling there will be more substance, with more middle- and back-office functions moving to Luxembourg but you will not necessarily see the fund or portfolio management function moving here.

"I would expect that there will be some

formal arrangement that will not lead to the UK becoming a third country without taking into account the significance of London for the EU and vice versa, and that something along the lines of the current set-up will remain; maybe an EEA-like arrangement, but it's hard to know for sure where the discussions are heading. I am hopeful there will be some form of rapprochement."

Luxembourg – A nexus for global distribution

When structuring a large private equity fund, it is likely going to contain international investors (the US, Europe, Asia) and is, in effect, a commercial deal between all interested parties to draw down the money.

Different investors have different preferences. Whereas sovereign wealth funds will want the most efficient funds possible and are prepared to have no tax leakage, European insurance groups who are subject to Solvency II will want to invest in EU regulated fund structures. This is because investor regulation in the EU embeds financial advantage in investing through European fund structures so European investors are steered to allocate to European funds.

These international nuances can work to Luxembourg's advantage by virtue of it being the hub of the European funds industry and a nexus for global funds distribution.

Rather than solely structuring an offshore vehicle, PE/RE fund management groups are instructing lawyers to establish multiple parallel vehicles across multiple jurisdictions.

"For us as a group, we consider Luxembourg to be one of our key hubs," states Sean Murray, Managing Director, Alternative Assets (EMEA) at SANNE – a leading provider of alternative asset and corporate administration services with more than EUR235 billion in AuA.

"We see massive opportunities in PE/RE in Luxembourg given the large amounts of dry powder. We see everything from mid-market PE fund managers all the way up to multi-billion dollar PE managers using Luxembourg to launch fund products. Luxembourg will, I think, remain the jurisdiction of choice for international fund managers who are looking to deploy capital into Europe and beyond. It's a tried and tested jurisdiction. It has a strong regulatory environment. It has a stable and favourable economic environment, and I think managers and investors alike are looking for that stability. All the key legal and advisory firms are located here and that acts as an enabler for Luxembourg to remain at the forefront."

Crestbridge, has a long history of dealing with real estate and private equity funds, having worked with them from its Jersey office since 1998 and Luxembourg since 2010.

"What we've been able to offer our clients is an ability to combine expertise in understanding the asset class, we are able to ask the right questions, with our expertise in understanding Luxembourg's regulatory market," says Daniela Klasen-Martin, Managing Director and Country Head, Crestbridge Luxembourg.

"We see a lot of global managers coming to Luxembourg for distribution. We see opportunities by combining different jurisdictions, whilst some still want to stay outside of the EU if they do not need to access EU investors. Luxembourg is for sure very strong for those managers seeking global distribution for their funds."

Product flexibility

Luxembourg has made strides over the last six or seven years to create a funds environment that is equally as appealing to PE/RE and VC fund managers who want less regulated fund structures, for speed to market purposes, as it is to traditional asset managers for regulated funds; be they SIFs or UCITS.

There never used to be proper regulation for alternative funds. It was more for retail-orientated UCITS fund products, which have existed since 1988. For those who were investing in offshore PE/RE funds, there was nothing similar until a few years ago when the special limited partnership (SCSp or *société en commandite spéciale*), a vehicle without legal personality modelled on the English law limited partnership, was introduced, following the AIFMD.

These are flexible vehicles free from corporate law overrides, of maintaining limited liability for investors and of generally avoiding any tax leakage at the fund level.

"Replicating an Anglo-Saxon concept in a civil law jurisdiction might seem a little odd at first, but where the SCSp can be advantageous is that managers can benefit from Luxembourg's fund management and administration infrastructure. Service providers here are very familiar with managing or administering SCA and SCS structures, and many would already have been supporting Cayman or Delaware LPs, for example," commented Pierre de Backer, Principal in the Investment Funds and Corporate practices at Deynecourt, a Luxembourg law firm, in last year's Luxembourg Fund Services report.

This is starting to reap benefits with the likes of Carlyle Group and Oaktree Capital Management choosing to run funds out of Luxembourg. Since 2013, more than 1,400 special limited partnerships have been established, most of which are unregulated.

The Luxembourg limited partnership has a number of advantages over the English limited partnership. Although the SCSp does not have its own legal personality or capacity, all contributions, acquisitions and dispositions of assets are made in the name of the SCSp and not the in the general partner's name nor any of the limited partners.

That is quite practical as it means one does not have to disclose the identity of investors in order to register an asset.

"Suddenly, regulation has allowed things like the SCSp and the Reserved AIF to be created. In the past, we had products where the regulator had to give its approval before they could be marketed to investors (the SIF, SICAR). That meant having to respond to a lot of questions from the regulator and it took longer to get the product to market.

"Time really is of the essence because you want to get your product to market as early as possible. The RAIF is a product where an entity such as Fuchs Asset Management, which is a Luxembourg-registered AIFM, can provide the requisite oversight to the RAIF. We as the AIFM are regulated, not the product," explains Timothe Fuchs, CEO of Fuchs Asset Management.

At GSK, Bolch confirms that many of the new fund requests the firm currently receives are for the RAIF. "Real estate funds and private debt funds seem to be very much in demand right now, not to mention private equity," he says.

The RAIF in his view is good solution for experienced fund sponsors, wanting to continue the perks of the SIF. Experienced fund managers know what they are looking for, whereas a first-time fund manager may see more value in relying on the added value of CSSF supervision.

"Sometimes it may be better for first-time fund managers to stick to SIFs, which as regulated funds require a disciplined approach to filing with the regulator," suggests Bolch. "The RAIF is a good option for more experienced and larger fund providers who have experience in the market.

"You can more easily attract continental European investors now with an unregulated SCS or SCSp or a RAIF, as opposed to an English LP structure, at least for now, given that no one knows where the UK is going as of 29th March 2019."

Francois Pfister is a partner in the funds group at Ogier (Luxembourg). He says that 90 per cent of the work Ogier does is for special limited partnerships, whether they are RAIFs or other fund structures, and helping clients outside of Europe to set up parallel fund structures in Europe alongside their offshore funds, based on their existing documentation.

"If a US manager has a Cayman or Delaware fund and now wants to attract EU investors, we would take the Cayman partnership as a template and set up an SCSp under Luxembourg law, which would to all intents and purposes look just like a Cayman fund," says Pfister.

"I would estimate that half of the funds we've set up over the last 12 months as RAIFs have been private debt funds, and mostly with US fund managers. We are also working presently on real estate funds, and a couple of substantial private equity funds.

"The strategy is important for the manager but when it comes to structuring the vehicle, Luxembourg has a very complete toolkit. You can always improve your arsenal, of course, but today I think we are very well equipped. Our role is to provide a structure that fits most of the strategies for most of the investors and I think that's what is driving Luxembourg's legislative actions."

"Luxembourg has a very complete toolkit. You can always improve your arsenal, of course, but today I think we are very well equipped. Our role is to provide a structure that fits most of the strategies for most of the investors."

Francois Pfister, Ogier

Substance builds among AIFM community

According to PwC's latest ManCo report, "Observatory for Management Companies 2018 Barometer", Luxembourg is now home to 228 licensed AIFMs overseeing EUR94 billion in AUM. The number of Super ManCos, which act as the investment manager to both UCITS funds and AIFs, stands at 124, overseeing EUR2.6 trillion in AUM. Lux-domiciled AIFMs employ 760 professionals and this is likely to continue to grow over the coming 12 months as UK managers get their Brexit plans firmed up.

"With respect to our AIFM services, we see a lot of mid-market managers choosing to use the delegated model," comments Murray. "For non-EU managers wanting to come to Europe, if they come to someone like us who has all of the services in place under AIFMD, they see it as an easier step to take. They know they can use a third party AIFM and it allows them to open up their distribution strategy to Europe. It's less restrictive in that sense and they only have to deal with one counterparty who takes care of everything for them.

"However, there is a strict level of segregation in place between the fund administrator, the depositary and the AIFM. It's easier than dealing with three different counterparties in my view."

James Burke is Head of Apex Europe,

Apex Fund Services (Ireland). He notes that UK fund managers have had to ramp up their contingency planning in response to Brexit and as a result the volume of applications that the CSSF has received has significantly increased over the last few months "as firms seek to finalise their Brexit plans and put them into action – both managers who have decided to totally Brexit-proof their businesses by setting up EU hubs as well as those entering into discussions with third party ManCos in earnest".

He is of the opinion that Luxembourg will continue to grow as the jurisdiction of choice for third party ManCos in Europe.

"Those who establish their own AIFM tend to retain the risk management and portfolio management functions in-house, but we would help with all the transfer agency and fund accounting services, AML services on investors, as well as give them a depositary solution. The central administrative function and other non-core requirements such as tax and regulatory reporting services are increasingly outsourced by managers who set up their own AIFMs," comments Burke.

There will need to be a cooperation agreement between the UK and the EU in order for the portfolio management function to be delegated back to the UK manager in a post-Brexit environment because UK fund managers will, in six months time, be classified as third country managers.

The delegation model is already in use now. An EU AIFM can delegate the portfolio management function back to non-EU fund managers, such as those in the US and Asia Pacific and it appears to be working well enough.

"We envisage that a similar arrangement should be possible for UK managers wishing to use an EU-based AIFM," continues Burke. "Brexit is placing more focus on that delegation model but that is the proposition and from an Apex perspective it means we can offer clients that one-stop-shop solution at the local Luxembourg level, across the value chain."

Sonja Maria Hilkhuijsen, Global Head of Compliance and Data Protection at Apex Fund Services, confirms that a number of UK managers are opting to have their own substance and relocating to Luxembourg.

"They aren't waiting for the Brexit

outcome. Particularly UK AIFMs, they are anticipating and scenario planning to ensure they are able to meet EU regulations and secure their distribution channels in EU. Waiting for the final Brexit outcome would put their entire marketing strategy at risk."

"These larger managers are recruiting local professionals in Luxembourg in order to demonstrate local governance and substance to the CSSF, particularly in light of the latest CSSF Circular 18/698 which is fundamental for regulatory approval," says Hilkhuijsen.

The rules under AIFMD say that if you invest more than 85 per cent of an EU feeder fund into a non-EU offshore fund you will lose the passport rights. As such, fund sponsors must set up a parallel onshore fund that runs alongside the offshore fund, if they wish to avail of the funds passport. Some people in the marketplace still aren't aware of this.

"The very largest PE/RE fund managers will likely have both offshore funds as well as European funds. I think the perception is starting to change in terms of managers thinking about Luxembourg to establish funds as opposed to just thinking about offshore jurisdictions such as the Cayman Islands," opines Joelle Hauser, Partner, Clifford Chance (Luxembourg) and head of its Investment Funds Division.

Hilkhuijsen points out that one of the attractions to UK managers appointing third party AIFMs in Luxembourg is that there are no linguistic concerns, as one might encounter when choosing Frankfurt, for example, or Paris. "Luxembourg is very multi-cultural, English is spoken among professionals throughout its funds industry, and it is well connected, making it easy to travel to a number of different European cities. It is Europe's financial hub," she says.

One point to stress for those managers who are thinking of setting up their own AIFM is that there is much closer scrutiny by the CSSF in terms of substance. This should be viewed as a positive, according to Fuchs, and should not be feared.

"The Luxembourg Government, the CSSF and professional associations have always been proactive to develop new regulation. In other jurisdictions, when regulation is introduced it generates fear but Luxembourg

is different. Regulation should not be feared if you establish the right sort of partnership," says Fuchs.

Luxembourg will continue to develop as an attractive place to do business. However, it has become more complicated today than it used to be in the past. The 18/698 Circular has replaced Circular 12/546, which imposes a certain level of organisation on a management company.

This is likely to make the third party AIFM an even more attractive option, moving forward. There will always be people with new ideas who will need such a solution because for them it will be too difficult to establish a dedicated, regulated management company of their own.

"The trend of having ManCos operated by a handful of people will probably disappear. They will need to be a lot more organised under Circular 18/698. It is an opportunity for us as a large and well organised AIFM to tailor make solutions for our clients," adds Fuchs.

ESG disclosures on horizon

The signature of the Paris Agreement on 12 December 2015 and the adoption of the UN 2030 Agenda for Sustainable Development on 25 September 2015 marked a shift in global attitudes towards climate change and environmental degradation.

The European Commission recently wrote the fact that over 170 countries have now ratified the Paris Agreement sends a powerful signal: the necessity of transitioning to a low-carbon, resource-efficient and circular economic system can no longer be ignored.

To achieve the targets agreed in Paris, including a 40 per cent cut in greenhouse gas emissions, around EUR180 billion of additional investments a year are needed. The financial sector has a key role to play in reaching those goals, as large amounts of private capital could be mobilised towards sustainable investments says the European Commission. Capital markets, in particular, can help to reorient investments towards those sectors and activities that can contribute to the sustainability of the global economy.

The Action Plan on Financing Sustainable Growth launched by the European Commission on 8th March 2018 laid out a roadmap to deliver on this commitment.

The EU is also already providing a

massive impetus to maximise the impact of public funds to attract more private investments. In particular, the extended and reinforced European Fund for Strategic Investments (EFSI 2.0), in force since 31 December 2017, proposes a 40 per cent climate-smart investment target.

The Action Plan aims to further connect finance with the specific needs of the European and global economy for the benefit of the planet and has three objectives:

- Reorient capital flows towards sustainable investments to achieve sustainable and inclusive growth;
- Manage financial risks stemming from climate change, natural disasters, environmental degradation and social issues; and
- Foster transparency and a long-term outlook for financial and economic activity.

Part of this strategy will be to ensure that asset managers, institutional investors, insurance distributors and investment advisors include economic, social and governance (ESG) factors in their investment decisions and advisory processes. Asset managers and institutional investors who claim to pursue sustainability objectives would have to disclose how their investments are aligned with those objectives.

This means greater transparency towards end-investors, ensuring comparability between products.

"In order to close the funding gap under the Paris Agreement, there has to be private

money invested in ESG projects. Going forward, asset managers will, in addition to pure financial criteria, also look at ESG criteria and provide disclosure reporting to investors and distributors.

"These are still draft regulations but they should be ready by Q3 2019. Looking at long-term sustainable investments is one of the new trends we have to watch," says Hauser.

It is possible that fund sponsors will start to take a more proactive stance in terms of sustainable investing, and share information on ESG policies as pertain to their investment strategies with investors, even before they ask for them. It will add more work from a reporting perspective, but asset managers increasingly understand the importance of ESG investing.

"This push (for ESG disclosures) is not only coming from institutions but also from family offices; it is a clear and recent trend. More investors have been asking for ESG disclosures in various forms," adds Kristof Meynaerts, Counsel, Clifford Chance.

Bolch is part of a working group with Invest Europe, the European Private Equity and Venture Capital trade association and participated in drafting a paper on ESG disclosure for the European Commission.

In essence, he thinks it is a good idea to have ESG factored in to the reporting equation but says it is not yet clear how these disclosures will be applied.

"Any fund will, amongst others, at least need to integrate sustainability risks into the respective funds' investment decision-making process, but what does that actually require from the manager or in respect of the given fund? If it's a real estate investment, what will the sustainability risk provided be? What will be the impact on the respective remuneration policy of the given AIFM?

"Transparency is good and disclosure requirements are fine, but they will need to make sense for investors and initiators alike," remarks Bolch.

Fintech developments

Luxembourg's connectivity to the rest of the world is fantastic. The reason Skype, and many others, are located there is because access to other jurisdictions is unrivalled. All the big technology companies are setting up in the Grand Duchy; Paypal, Amazon, etc.

Moreover, Luxembourg is investing heavily in infrastructure around IT, security, data lakes and so on. Indeed, in terms of Tier 4 category data centres, there are more in Luxembourg than anywhere else in the world.

While the US has Silicon Valley and London has the less glamorous sounding Silicon Roundabout, there are signs that the Grand Duchy is developing a Fintech hub of its own.

Martin Guérin, founder and owner of Nyuko, last year took over the role of CEO of Luxembourg City Incubator. Along with the Luxembourg City Incubator and Luxembourg House of Financial Technology (LHoFT), Nyuko has moved into the 4,200 square meter building Le Dôme in the Gare district of Luxembourg.

Although still early days, this announcement could be a sign that the Gare district will become Luxembourg's de facto Fintech hub.

"Luxembourg has created various incubation schemes including the House of Financial Technology and the House of Entrepreneurship. People receive proper mentorship from tech specialists, fund management companies and so on, and this helps them to scale up in a cost-effective way. Overall, I would say Luxembourg provides a hugely conducive environment for technology start-ups," says Robert Kimmels, Managing Director, Praxis Luxembourg SA.

This is important as there is always a risk, to any established funds jurisdiction, of becoming complacent.

These initiatives taken by the Luxembourg government to allow its fintech industry to grow appear to have been successful. To some, like Ogier's Pfister, this is refreshing to say the least.

"You see more start-ups using new technologies including DLT and consolidating their positions, and all sorts of reporting and compliance solutions and tools being developed.

"This is helping Luxembourg's financial industry to defend its position. It was absolutely indispensible for us to move in that direction because not doing so would place us in a difficult position in the future. Smaller fintech companies are helping larger, established financial institutions operating here. Blockchain technology will be used in custody and transfer agency work and this will indirectly benefit asset managers as a result. There are now more fintech entrepreneurs operating here and that is quite a comforting thought," comments Pfister.

The question will be whether these smaller fintech players will need to comply with heavy regulations.

The CSSF needs to be careful in that respect. It will need to strike a balance that helps the fintech sector to grow without over-regulating it. "Some will be needed, obviously, but too much regulation could kill the sector. These entrepreneurs need to concentrate on their core businesses, not worry too much about complying with onerous regulations.

"I do think the CSSF is open to this. We at Ogier have been working on a few ICO projects and the CSSF has an open attitude along the lines of, 'Okay, come to us with the proposed project and we will see what is possible'. A wait and see attitude by the regulator is welcome, rather than trying to regulate against the market in advance," adds Pfister.

At Apex Group, Hilkhuijsen further explains that the government has come up with a scheme to bring Luxembourg's employees up to speed with blockchain technology. The Luxembourg Digital Skills Bridge programme supports the development of qualified employees in order to further reinforce innovation and competitiveness in a world of digitisation and automation.

There is also Lux Innovation contributing to the economic development of Luxembourg by fostering innovation, fuelling international growth and attracting foreign direct investments.

"These initiatives provide the right environment for the creation of a next generation talent hub, which should attract programmers and other technologists, and this will allow Luxembourg's companies to transpose the latest technologies through their business lines. We are looking to benefit from this to improve our data compliance and reporting capabilities," she says.

In conclusion, Aleksander Jakima, Conducting Officer at Circle Partners says: "We are committed to investing in best-in-class technologies to improve our automation capabilities. By doing so we can focus more on the relationship side of the business." ■

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THE DIFFERENCE

Luxembourg's innovation has created perfect marriage of opportunity

Interview with Sean Murray

In a recent article with *Private Equity Wire* seven months ago, Sean Murray, Managing Director, Alternative Assets (EMEA) at SANNE – a leading provider of alternative asset and corporate administration services with more than EUR235 billion in AuA – discussed a definitive trend among PERE fund managers to outsource their internal accounting and reporting processes.

This trend shows no sign of abating as global PE/RE groups look towards Europe, and specifically Luxembourg, to develop global distribution hubs.

Brexit is another unavoidable catalyst. Brexit has contributed to some of the growth we are seeing in Luxembourg as fund managers are looking for stability and certainty around their fund structures. This allows fund managers to market a fund that they know will have the same rights once the negotiations over Brexit are finished, whatever the outcome.

As fund managers get more comfortable outsourcing tasks to third party specialist fund administrators, we see a shift in mind-set as they come to understand the myriad benefits to using third party management companies, not to mention an independent depositary.

Under AIFMD, these are key service provider relationships and for groups like SANNE, this is playing into their hands.

"The outsourcing trend we saw earlier in the year has continued and ramped up. We see a massive amount of inflows coming in to Luxembourg, as I'm sure other service providers are seeing. The number of clients and the number of new deals is phenomenal. I don't think we've seen a stronger inflow of business since before the 2008 global financial crisis," states Murray.

Sean Murray, Managing Director, Alternative Assets (EMEA) at SANNE

SANNE services its global clients across asset classes on all fronts, from the depositary to the AIFM, administration services, providing corporate services to underlying structures across the board, and offers a full end-to-end AIFMD solution.

Most fund managers have become accustomed over the past few years to having a depositary. "It is there to provide oversight of the structure and be able to provide an extra layer of comfort to investors," explains Murray. "Investors are looking for transparency and to ensure that there is someone sanity checking the fund structure. The depositary provides the compliance check, alongside the AIFM.

"Outsourcing has become an easier discussion to have with PE/RE fund managers than perhaps it was two or three years ago."

The concept of having a responsible party in place has always existed in Luxembourg, given that for the last three decades its service provider network has honed its expertise in facilitating UCITS funds, including custodians who have long taken care of fund assets. Murray says that even prior to AIFMD being introduced, Luxembourg's custodians were evolving to provide a depositary bank function.

"With AIFMD, it has opened up the door to other parties, in addition to the custodial banks, to provide that supervisory role. It has formalised some of those oversight functions, and has established a tried and tested framework.

"Some managers are new to the EU and we need to explain the concept and role of the depositary, but they understand they need one if they want to market their fund(s) into Europe," says Murray.

Murray views Luxembourg's continued innovation over the years as one that has created the conditions for its funds industry to flourish. Introducing the special limited partnership (SCSp) and the Reserved Alternative Investment Fund (RAIF) has helped to attract global PE/RE groups, given the amount of capital in the private markets that is floating around. These fund managers want products that are easy to take to market and easy to set up, within a highly regulated and supervised jurisdiction.

"The speed to market is really helping Luxembourg and is why we are seeing such a strong inflow of business. With products like the SCSp and the RAIF, there is still the same level of supervisory oversight on the business, but it is the AIFM who is subjected to this oversight not the fund.

"If you identify an investment opportunity and want to respond quickly because investors are lined up, you don't want to be waiting six months to set up an investment vehicle," he says.

In many respects, it has led to a perfect marriage: the flexibility of investment vehicles and the transparency of reporting provided by Luxembourg service providers.

This has not gone unnoticed at SANNE. It has sought to capitalise on the attractiveness of Luxembourg, and its ability to offer an end-to-end solution under AIFMD, with Murray confirming that it now has a large number of RAIFs, in particular, on the books.

"We see a couple of new RAIFs or SCSps being launched weekly. When the fund sponsor sets up a RAIF, we can act as the AIFM, and we have the administration business and the depositary business to support the product at the same time.

"That again helps with speed to market because fund managers don't have to deal with multiple counterparties, they only need to negotiate with one counterparty. We can quickly turnaround legal agreements and get the fund ready for launch," explains Murray.

In his view, completing the acquisition of Luxembourg Investment Solution SA ("LIS") in February this year, was the missing piece of its service offering. LIS is a leading third party Alternative Investment Fund Manager (AIFM) with approximately EUR8.3 billion in AuA. The acquisition allows SANNE to act as the ManCo to both UCITS funds and AIFs.

"Whilst we were enjoying success with our administration and depositary business, we were missing the AIFM leg. Since then, we have seen a lot more interest from fund managers who would like us to provide 'all in' services," says Murray.

"That said, we are still being approached for those services on an individual level. We provide AIFM services to clients who do not use us as their administrator, and equally we provide administration and depositary services to clients who are using a separate third party AIFM.

"Having that flexibility allows us to take advantage of opportunities in the market. Especially where managers are coming in and setting up their own AIFM businesses."

SANNE is able to support those managers in the short term as they look to build up their substance and hire staff. This is something it is already currently doing for a number of clients. Murray believes that the more fund managers move in to Luxembourg, the more it will help to further enhance the profile and attractiveness of the jurisdiction and increase Luxembourg's expertise.

"As a group, we welcome seeing new fund managers coming to Luxembourg to create their own substance and add to the industry. It's all about continuing to build up the industry here. If that means some of our largest fund manager clients set up their own AIFMs, we're happy with that.

"Equally, we continue to see an increase in fund managers coming to Luxembourg from outside the EU who are happy to use a third party AIFM because they don't want to create their own presence in Europe. Luxembourg is, and I think will remain, the jurisdiction of choice for international fund managers who are looking to deploy capital into Europe and beyond," concludes Murray. ■

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RAIF: a creative vehicle for investing in tomorrow's world

Interview with Timothe Fuchs & Enrico Mela

Fuchs Asset Management SA ('Fuchs AM') is the Management Company ('ManCo') within the family-owned Fuchs Group located in three jurisdictions: Luxembourg, Belgium and Switzerland. As an authorised AIFM, it provides the services and the knowledge (governance, risk management & compliance, portfolio management and distribution) for asset managers, private banks, family offices and entrepreneurs wishing to launch AIFMD & UCITS compliant vehicles as easily as possible.

Timothe Fuchs, CEO at Fuchs Asset Management

Over the last four years, Fuchs AM has been expanding its AIFM capabilities to support investment managers, including private equity managers, who have deep investment expertise but aren't necessarily equipped to run their own regulated management company business.

With the Reserved Alternative Investment Fund ('RAIF') also proving a huge hit with Private Equity ('PE') managers, these are propitious times for the Fuchs Group.

"We offer all the processes and procedures as a regulated AIFM," comments CEO, Timothe Fuchs. "The managers can come to us with their investment idea, and if it is viable and makes sense, they can launch a RAIF quickly and easily. Whereas you need to have investor capital in place on day one for regulated products, this is not the case with a RAIF – a manager can launch it first and then do all the necessary marketing."

What gets Fuchs and the team especially excited is that the RAIF allows for creativity. The RAIFs on its platform are highly diverse, but the common thread is that each PE manager client is investing in areas that will have a tangible, positive impact on the planet. Such is the ease of bringing a RAIF to market, with Fuchs acting as the AIFM, that it is encouraging more PE managers and innovators to develop unique strategies.

"Companies are using the RAIF product as a way to encourage investors to invest in the real economy. It is helping investors make a difference. In the past, these private market investments would have been harder to access; the RAIF is changing that," says Enrico Mela, Managing Director at Fuchs AM.

The notion of partnership is very important when selecting a third party AIFM. As Fuchs notes: "What gets me passionate is that, as an AIFM, we have a fantastic opportunity to support people who have good ideas and are looking to do things that have an added value for the economy and for future generations. It's amazing to look at the different investments our clients are involved with. With our third party ManCo concept, we can support PE companies in their investment goals."

"That's what gets me up in the morning, thinking about how we can partner with clients to complete their vision," continues Fuchs. "Within our group we provide also family office services and we are developing together with our client's ideas how to invest differently. That's not to say that traditional financial markets are not still interesting, on the contrary, but we need to think about investing in the real economy for future generations."

In his view, the experience or structure of the ManCo is not necessarily the key consideration for a PE manager wishing to launch a RAIF.

"Rather, you need to have a common interest in forging a genuine, long-term partnership. The chemistry has to be right. The rest brings added value but it all boils down to the human relationship in my opinion. Ultimately, does the AIFM share your passion?" concludes Fuchs. ■

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Parallel structures – the Luxembourg solution

By Anne-Gaëlle Delabye & Tara Kapur

Non-EU managers seeking access to European capital are more frequently looking to Luxembourg parallel structures due, in part, to their flexibility and the features that the Luxembourg limited partnerships share with the Anglo-Saxon model. Ogier's Luxembourg investment funds team – working in partnership with our teams in the BVI, Cayman and Hong Kong – have extensive experience of structuring parallel funds for clients in the US and Asia.

Luxembourg limited partnerships are increasing in popularity as a parallel structuring option, being comprehensible in structure and functionality for managers (and investors) with experience in the Anglo-Saxon market, and also providing the necessary comfort with respect to limited liability of investors.

An appetite for large fund raises from a diverse pool of investors acts as stimulant for managers/sponsors (notably US and Chinese initiators), who are making use of sophisticated global fund structures with Luxembourg and other offshore vehicles constituted as parallel funds to the main fund.

There are certain components to the overall model that must be considered in advance of launch.

Sponsor return: In an offshore context/standalone structure, the sponsor usually receives its return by way of *inter alia* advisory/management fees or promote fees to the general partner, and/or by the establishment of carry vehicles. In a parallel structure the flow of fees through the structure can potentially be more complicated.

Co-management: Although the Luxembourg parallel will in many respects replicate the terms of the main fund as it will have a common investment strategy and *inter alia* invest/divest in the same portfolio

Anne-Gaëlle Delabye, partner in Ogier's Luxembourg Investment Funds team

Tara Kapur, associate in Ogier's Luxembourg Investment Funds team

of assets, each is a separate legal entity and the Luxembourg vehicle will need to be compliant with the requirements of applicable EU regulatory law. Thus an EU AIFM may work alongside a Cayman manager, and each participant in the structure will need to have a keen understanding of its role, and the overall functioning of the model, so as to ensure the confluence of the various limbs into one smoothly operating whole and avoid functional conflicts during the life of the fund(s).

Costs: The establishment and ongoing administration of separate entities in multiple jurisdictions can add to the cost burden on the structure. Although less of a concern for sizeable funds, for smaller funds the sustainability of the structure should be carefully reviewed. The regulatory impact in the context of investment decisions/substance requirements in relation to the Luxembourg parallel must be understood by the non-EU main fund.

Notwithstanding the complexities inherent to a fund structure with parallel funds, there are inescapable benefits, such as:

- The variety of options it makes available to a far greater pool of investors (and capital) – investors have the ability to participate through the fund that is best suited to their particular risk, regulatory, jurisdictional and tax appetites;
- The AIFMD impact may be restricted to the Luxembourg parallel without any regulatory scope creep with respect to the non-EU main fund;
- A larger investment pool means funds can be managed more efficiently, and can eliminate some of the time otherwise taken to make a target acquisition – managers can respond with greater agility to market dynamics in order to, ultimately, meet their investment objectives. ■

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Luxembourg has the toolbox for global distribution

Interview with Joelle Hauser & Kristof Meynaerts

Luxembourg continues to see net inflows of capital and is now the world's second largest fund centre with, as of August 2018, EUR4.3 trillion worth of net assets under management, and this only in regulated funds, according to the Association of the Luxembourg Fund Industry (ALFI).

Luxembourg was the first EU jurisdiction to introduce the AIFM Directive, drafting a law and filing it with the Luxembourg parliament on August 24th, 2012 well ahead of the July 2013 deadline. Since then, the Grand Duchy has increasingly embraced moving away from traditional retail cross-border fund distribution under UCITS to become a real centre of alternative investment funds.

"This has put Luxembourg firmly on the map alongside non-EU financial centres such as the Cayman Islands and Delaware," comments Joelle Hauser, Partner, Clifford Chance (Luxembourg) and head of its Investment Funds Division. "We see promoters coming from Asia Pacific and the US for institutional distribution in Europe under the AIFMD as it has become too difficult to accomplish this with their non-EU funds.

"They are looking for a European hub and I would say Luxembourg is one of the obvious alternatives. We have a good track record with real estate funds, which we have built over the last 15 years."

Luxembourg is currently home to 3,949 regulated funds, but thanks to changes to its limited partnership regime and the introduction of the RAIF (reserved alternative investment fund), taking into account the marketing restrictions on non-EU managers of non-EU funds under the AIFMD, the Grand Duchy is going from strength to strength as an alternative funds centre, especially for private equity, real estate and private debt funds.

Joelle Hauser, partner at Clifford Chance (Luxembourg)

Kristof Meynaerts, counsel at Clifford Chance

"Another reason for continued growth is Brexit, as we see many of our UK clients running partnership structures considering an alternative option to the UK and there again, Luxembourg is the obvious choice. Global fund sponsors are picking Luxembourg for their alternative fund products," explains Kristof Meynaerts, Counsel, Clifford Chance.

In 2013, Luxembourg lawmakers took the opportunity to revamp the company law, allowing for partnership structures to be established in a similar fashion to Anglo Saxon partnerships. The revised regime facilitates both partnerships with legal personality (SCS or *société en commandite simple*) and without legal personality (SCSp or *société en commandite spéciale*), which has helped put the Luxembourg limited partnership as an alternative on the map, as referenced by Meynaerts.

Moreover, both the SCS and SCSp can be used for regulated and unregulated partnerships.

"This modernisation of our limited partnership law has been a real catalyst of growth, giving sponsors the choice of setting up limited partnerships under various forms as open-end or closed-end funds.

"We have been able to leverage our knowhow from the UCITS distribution network and the technical feature of these funds and transpose it to alternative funds. I think we have learned a lot and moved on as a jurisdiction; we still excel at supporting UCITS funds, but alternative funds are becoming increasingly important," says Hauser.

At the end of September 2017, 32 per cent of all new investments into European funds that year were invested into Luxembourg-domiciled funds. To underscore the global appeal of the jurisdiction, these funds are

held by investors in more than 70 countries; a ringing endorsement of its cross-border capabilities. Luxembourg's global reach is unequalled and augurs further alternative fund growth.

"Luxembourg is home to a large number of people who are acquainted with regulatory implications related to UCITS funds, in respect to NAV calculations, liquidity rules, etc, and when it comes to launching alternative funds in an AIFMD context, that historical experience yields benefits. Whether it concerns fund distribution or regulatory compliance, Luxembourg is well positioned to take on alternative funds.

"The revision of the limited partnership law and the introduction of the RAIF, enables structuring an alternative fund without too much regulatory imposition, while still offering a lot of investor protection under the AIFMD regime. The significant decrease of the time required to market and structure, together with the many service providers that have acquired expert knowledge, explains how and why Luxembourg is becoming a good choice as a fund jurisdiction," states Meynaerts.

The best fund on earth has little value if one is not able to distribute it to anybody. Fund managers, therefore, should carefully consider the domicile of their next global fund product.

"Quite often we come to the conclusion that Luxembourg is the right place, not only for distribution but also for structuring the new vehicle, as we have a well-equipped toolbox for structuring funds in a variety of regulated or unregulated regimes. With such an extensive toolbox, you can get the right cultural fit with the client for each product. I think this is one of the main advantages of Luxembourg," says Hauser.

She believes that the perception is starting to change among global fund managers thinking about Luxembourg to establish funds as opposed to say the Cayman Islands, partly because investors are getting familiar with it.

"I see more Asian and US investors investing into Luxembourg funds compared to a few years ago. Global players want to invest in pooled vehicles alongside institutional investors from countries other than their own. In that respect, European institutional investors have been investing in Luxembourg-domiciled funds for a long time and have become very comfortable with the jurisdiction, amongst other reasons because they know that Luxembourg has a professional and competent regulator."

Meynaerts confirms that in Asia, specifically Hong Kong and Singapore, Clifford Chance does a lot of work with fund sponsors based there, "who have local investors for their products but wish to attract other international investors. Luxembourg does not only work well for European fund sponsors but also for Asian fund sponsors."

"It is very easy to do business and raise capital out of Luxembourg. You can sell a Luxembourgish fund to everyone and that is not necessarily the case for those who structure funds out of other jurisdictions."

The RAIF can be set up in any corporate or unit trust form making it a very good solution for those who require an umbrella fund with compartments.

"In Luxembourg, all potential options are available to find the right solution for investors and managers," says Hauser.

"Our corporate and fund structures are not directly linked to asset classes, which allows us to start thinking about the product within the right legal and corporate framework rather than thinking about the assets and building the product around it."

"As a jurisdiction, you have to cater to the needs of different players in a matrix-like way which works for the type of investment, the tax requirements, as well as the appropriate governance structure," concludes Meynaerts. ■

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Connecting the dots

Interview with Aleksander Jakima

Luxembourg's Reserved AIF (RAIF) has completely changed the Grand Duchy's alternatives marketplace, from a fund structuring perspective. Over the last three decades it has become the de facto onshore jurisdiction for UCITS funds, but this has started to change in the last few years.

According to EFAMA, total AUM in AIFs grew by 15.1 per cent year-on-year to reach EUR673 billion at the end of 2017, while UCITS' assets increased by 11.9 per cent over the same period.

As PwC points out in its 2018 Barometer Report, assets held by both AIF and UCITS funds in Luxembourg reached EUR4.1 trillion in December 2017; this has since risen to EUR4.27 trillion through August 2018.

One of the factors behind the growth in AIFs, and specifically RAIFs, is the ease with which they can be launched and the avoidance of dual regulation, as is the case when launching a SIF, for example.

"UCITS remain popular but we have seen a complete shift in people using RAIFs instead of SIFs and SICARs, which were the typical vehicles used by private equity and hedge fund managers," confirms Aleksander Jakima, Conducting Officer at Circle Partners, an independent fund administrator with a strong presence in Luxembourg.

"Now they are using the AIFM's license to proceed straight to the set-up phase with a RAIF," continues Jakima. "One is able to launch a RAIF within three to six months so it is far more: efficient and convenient than other vehicles."

Both EU and non-EU fund managers are now tending to immediately opt for the RAIF, with Jakima making reference to one client who recently opted for a SICAR but came up against so many problems that they cancelled it. "Although the RAIF is a little

Aleksander Jakima, Conducting Officer at Circle Partners

more expensive due to costs associated with appointing the external AIFM, it is more straightforward," he says, in terms of marketing and time to market.

Such is the popularity of the RAIF that it has led to increased management company activity in Luxembourg, as people recognise the potential to act as the appointed AIFM to RAIFs in a sub-fund arrangement. Currently, there are some 228 licensed AIFMs in Luxembourg according to PwC, controlling EUR94 billion in AUM.

This is working in Circle Partners' favour, notes Jakima: "We are working with most of Luxembourg's independent service providers, as well as banks, and we are doing business with a large number of parties: AIFMs, auditors, banks, law firms. We continue to connect the dots and offer clients a compelling solution. The network has expanded tremendously and at the same time Circle continues to grow and hire new staff in Luxembourg.

"We have a wide network of AIFMs in Luxembourg, we know most of them. For those we don't know we will do due diligence checks in advance, so that were a client to choose that AIFM we would already have done our background work and we can step right into work together. The more AIFMs we work with, the easier the process of bringing RAIFs to market."

Jakima confirms that Circle has seen a lot of private debt and trade finance strategies, in particular, choosing to avail of the RAIF, as well as algorithmic trading strategies.

"Our solution allows us to work with different service providers such that we can partner with investment managers looking for a more boutique approach. With us, all clients are treated equally," concludes Jakima. ■

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Brexit as a digital catalyst

By Kavitha Ramachandran

Brexit is a major political disruptor and, despite the uncertainties, it brings tremendous opportunities. London is a key financial centre and it is no surprise that while we wait for the final negotiations to fall in place, financial industry players have started taking action to create a presence on the Continent to stay competitive and continue to attract capital. As a result, the asset management industry is seeing a shift from the UK to the Continent which is creating opportunities for countries in the EU27.

Simultaneously, digitalisation is gaining pace due to changing investor profiles and demands, cost pressures and growth, notably in the alternative asset classes. Brexit is likely to be a catalyst for accelerating the pace of digitalisation in the asset management industry with a focus on alternative asset classes and a country like Luxembourg is ideally placed to re-engineer its ecosystem to lead the intelligent digital journey.

Indeed, the financial industry in Luxembourg has long since embarked on its digital journey. As one of the largest finance centres in the world, Fintech has been a priority for the government and Luxembourg has been an early adopter.

Furthermore, as the leading European centre for investment funds with EUR4 trillion plus in assets under management, Luxembourg has created a niche for itself by introducing a proactive legislative and regulatory toolbox for fund structures. It has built up a strong infrastructure and network of service providers covering the spectrum from legal to audit firms and administrators to depositaries. Luxembourg established itself early on as a leading fund domicile for traditional assets and has over the years grown in stature as a key domicile for alternatives initially focusing on private equity and real estate with debt and infrastructure following suit. The illiquid asset classes have leveraged off Luxembourg's excellent structuring tools for it to emerge as a leading provider of services to special purpose vehicles, general partners and carry vehicles.

Kavitha Ramachandran, Senior Manager Business Development & Client Management, Maitland

This has seen a steady influx of funds, asset managers, insurance companies and banks as firms finalise their post-Brexit plans. The regulator has raised the ante for substance requirements and all of this is slowly creating a shift in the ecosystem with a focus on asset management. Historically, asset management has tended to remain outside the jurisdiction. However, this trend is changing with Brexit. A recent article in the Financial Times quoted that around 5,000 people now work in the financial industry in Luxembourg, a figure that has grown by 10% over the last year. Moreover, this has only scratched the surface with more than half of the large UK-based asset managers yet to finalise their plans. The pace of change is likely set to continue.

Alternative asset growth will outpace traditional

Parallel to Brexit, growth projections show that there will be a far greater increase in alternative assets versus traditional assets due to the shift in investing patterns and type of investors. The private equity, real estate and debt classes are set to increase substantially, driven by demand from institutional investors, high net worth individuals, pension schemes and insurance companies.

Enhancing the client experience has never been more important as a key differentiator than just product innovation. As millennials begin to dominate the investor pool and seek technologically savvy solutions – combined with pressures on fees and costs and the need to penetrate new markets with the constant race for alpha – there is a call for managers to create value. With client-centricity being the key driver for the change, the asset management industry is progressing down the intelligent automation journey.

Automation has become a must and digitalisation a necessity. Traditional asset managers are ahead in this journey with Robotic Process Automation (RPA) and progressing towards Artificial Intelligence (AI). In contrast, the change in the alternative asset space has to date been slow or nonexistent. Private equity, real estate and debt are still in their nascent stages when it comes to automation. This is largely the result of the complexities inherent in the asset classes, fewer integrated systems and manual processes. But alternative fund managers are now finding themselves at the same fork and will need to digitalise if they want to avoid atrophy.

Moreover, the hedge fund industry which has historically tended to be less prominent in Luxembourg – but is nevertheless a key player with liquid alternatives and similar strategies – has narrowed the gap between traditional and hedge funds. Hedge fund managers have followed in the footsteps of traditional managers keeping up with the digitalisation story. Now, with more private equity managers investing in hedge funds and securitisation vehicles, the digitalisation gap is likely set to narrow. Combined with the demands brought in by Brexit and organic growth, the pace of change is going to be more accelerated than ever before as these fund managers will look to differentiate and create value. Being conscious of disruption and using this as a stepping stone to success has become a necessity for growth.

This will call for more of these firms to go down the intelligent automation journey and will trigger changes to current processes. Portfolio and risk management are set to undergo major changes with big data analytics supporting investment identification and management of risk, and changing the way operational due diligence is conducted. Changes to risk and compliance processes and real time reporting will transform middle office functions and the way the alternative asset management industry has been functioning.

Blockchain is transforming the transfer agency industry and is predicted to change property management and operations in the real estate world. Systems integration and automation of the NAV process and reporting will be a necessity as the move up the value chain continues. Fund managers will be seeking strategic partnerships with service providers and Fintech firms in their digitalisation journey. Digitalisation is set to transform the service providers to value providers and firms will need to cope to stay ahead.

Luxembourg is re-engineering its ecosystem

Luxembourg and its financial industry are no newcomers to challenges and the jurisdiction has reinvented itself many times not only to stay ahead of changes but also to be proactive and emerge as a leader. The current trend to digitalisation calls for transformation in the way the current ecosystem is re-engineered and will make demands on talent. Luxembourg has a rich talent pool and has the luxury of being able to draw from its neighbours. This talent pool will not only need to beef up on portfolio management skills but also combine this with a digital skill set.

The Luxembourg University and its partners in industry have created the ideal platform for identifying and nurturing talent and collaborations. The recent issue of the Harvard Business Review ran an interesting article on "The Business Case for Curiosity": This is very apt for a country like Luxembourg which is now on the cusp of another transformation which is likely to last the next decade or so. In upskilling the current workforce and changing processes, companies need to hire for curiosity, encourage inquisitiveness and create a platform for life-long learning. Working with millennials, generation Z and future generations will provide interesting human resources challenges as the country_ adapts.

Much of the impetus for change can be dated back to Brexit. That a political disruptor would help set the pace for digital transformation in Luxembourg would have been unthinkable a little over two years ago but much has changed. As firms face up to the challenge and work progresses in building the digital highway, the road ahead will have its fair share of challenges. As the fireworks lit up the skies and Luxembourg celebrated its National Day, little did it realise the catalytic effect the Brexit vote would have. ■

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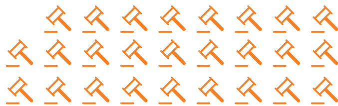
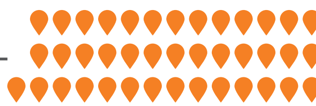
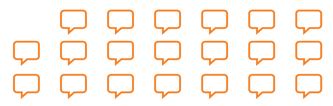
26 

GLOBAL LOCATIONS

40+ 

LANGUAGES

20 

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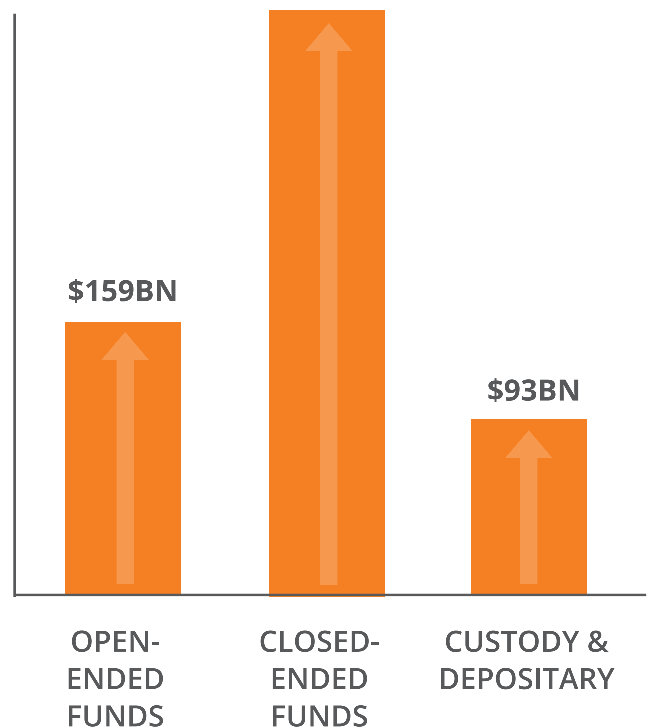

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Apex primed to support UK fund managers post-Brexit

Interview with James Burke & Sonja Maria Hilkhuijsen

Since Brexit has become a reality, UK managers have been putting in place contingency to protect their businesses, creating opportunities for other European financial centres including Luxembourg. Once the UK leaves the EU next year neither the UCITS or AIFMD regimes will apply and UK entities will no longer be able to manage and market their funds in the EU.

The risk to losing access to the single market is unacceptable to the UK fund manager community and in that regard Luxembourg is a really viable alternative, according to James Burke, Head of Apex Europe, Apex Fund Services (Ireland).

"The reputation and the business friendly environment are the two main reasons for choosing an onshore jurisdiction like Luxembourg," says Burke. "UK managers have two main options. The first is to establish a presence in an EU country, the second is to engage with a third party management company. Establishing your own presence is obviously the safest course of action as it gives you guaranteed access to the single market and also has the added benefit of no leakage of fees to third parties in the management structure."

Managers need to be aware there is increased regulatory scrutiny on firms to demonstrate sufficient substance to carry out the duties and obligations of an AIFM; including governance, risk management, and other internal compliance controls. Establishing a newly regulated management entity in an EU hub also has capital implications.

For smaller managers and non-EU managers who do not wish to have an EU presence, the third party AIFM model is appealing.

"There are clear advantages to using Lux-domiciled third party AIFMs: speed to market, no regulatory approval process.

James Burke, Head of Apex Europe, Apex Fund Services

Sonja Maria Hilkhuijsen, Global Head of Compliance and Data Protection, Apex Fund Services

The manager simply focuses on their core competency of managing the portfolio without having to worry about the cost implications of setting up their own management company," comments Burke.

The Apex Group now has a substantial presence and breadth of offering in Luxembourg. Following the close of its recent acquisitions, most notably in this instance Warburg Invest Luxembourg SA and MM Warburg & Co Luxembourg SA and LRI Group, the combined Group will have over 450 staff in Luxembourg alone and the ability to service the full value chain of a fund.

Luxembourg service providers who can offer third party AIFM services, back-office administration, custody and depositary services, will be well placed to attract UK managers with the offer of a one-stop-shop solution.

"We have the infrastructure a client can leverage and which is adaptable, while still giving security and control of their fund management activities (including GDPR). We have the technology to receive consolidated reports from the different service providers. Clients want reports, controls and infrastructure and Apex has a lot to offer in that respect," says Sonja Maria Hilkhuijsen, Global Head of Compliance and Data Protection.

She further adds that whereas some Luxembourgish management companies might cover the cross-border activities for managers in Luxembourg, Ireland and the UK, Apex is unique as "we have a larger footprint – we have worldwide centres of excellence which allows us to adapt to the distribution models of the clients".

"With the LRI acquisition, the management company will leverage the full infrastructure of Apex. Post-Brexit, it should offer some interesting opportunities for us," concludes Hilkhuijsen. ■

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Private equity exits critical in current environment

Interview with Robert Kimmels

Private equity is sitting astride a mountain of dry powder, which currently stands at USD1.14 trillion according to Preqin*. Fund raising has never been easier but with so much money floating around, valuations are being driven upwards.

This is placing enormous importance on private equity managers planning for exits. How can they be sure that the target company will continue to grow and generate an attractive earnings multiple at exit when the valuation is already high at entry?

"The multiples being asked for right now are exorbitant; it used to be common to pay 10 or 11X EBITDA but in some sectors this has risen to levels well above that. It places a lot of emphasis on value creation. PE managers are hiring professionals from a wide range of backgrounds to go in, fix up the operations of their target companies, increase operational efficiency, and thereafter plan for the exit. The exit phase has never been so important as it is right now, and it's just going to continue to evolve," explains Robert Kimmels, Managing Director, PraxisIFM Luxembourg SA.

PraxisIFM is an independent group of companies providing a range of financial services including fund formation, transfer agent and administration services. The Group is listed on The International Stock Exchange and is majority-owned by senior management.

"Our role as a fund administrator is to aid fund managers by allowing them to focus on the value creation while we manage the fund's administrative operations as they work towards an optimal exit. The key aspects to this are the quality of our work, the efficiency and speed with which we deliver requested documents/reports, in terms of the fund's operations, and keeping the fund in compliance with all of the regulatory requirements," continues Kimmels.

Robert Kimmels, Managing Director, PraxisIFM Luxembourg SA

In the current climate, where sourcing and originating the right deals is key, PE managers need a strong partner to handle all of the non-investment, operational aspects of their fund while they concentrate on generating value in each of the portfolio's underlying investee companies.

"Our role has become more important than ever before," says Kimmels.

"Praxis's value-add is the speed and the quality of the financial reporting we produce and general deal support for our fund manager clients. Both acquisitions and exits usually have a critical timeframe. Every element of a deal's lifecycle requires coordination between board, GPs, LPs and /or fund managers who have to be certain they have the right documentation and reporting when and where they need it. The speed to react to clients in this environment is vital and something we focus our efforts on."

Smaller and mid-sized PE managers are looking to create operational and cost-efficiency in the fund structures to benefit their end investors. "In the rapidly evolving regulatory and legal environment for PE investments, these managers often find it simpler and more effective to have an administrator to help them comply," says Kimmels.

This requires finding a fund administrator with the right cultural fit who they know can support them every step of the way.

"We understand the difficulties of deal execution and value creation; decisions have to be made fast. As a company we retained our staff ownership model so quick decision-making is definitely a competitive advantage that Praxis provides to our clients," concludes Kimmels. ■

Praxis Luxembourg SA is supervised by the Commission de Surveillance du Secteur Financier.

*https://www.barrons.com/articles/record-sums-of-moneyflood-into-private-capital-1539198543

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Added substance supports third party AIFM model

Interview with Daniela Klasen-Martin

On 23rd August 2018, Luxembourg's regulator, the CSSF, published a Circular 18/698 which set out to codify the organisation, substance and authorisation of Luxembourg investment fund managers. Amongst others the Circular replaces Circular 12/546, which detailed the CSSF's expectations for UCITS managers and also served as the benchmark for AIFMs under the AIFM Directive.

This approach to further clarify and summarise what is expected of a Luxembourg management company is helpful according to Daniela Klasen-Martin, Managing Director and Country Head, Crestbridge Luxembourg, a leading independent administration, management and corporate governance solutions business.

"The Circular is a summary of practices that management companies were already doing in Luxembourg but which had not been formally set in writing; for example, the number of mandates that directors can have, which the CSSF has limited to 20 mandates.

"However, the regulator has clarified that if a client has multiple fund structures, a director can combine all of them into a single mandate. There is also an indication in terms of the number of hours a director can spend working for an AIFM, which is 1,920 professional hours per year," explains Klasen-Martin.

The Circular also stipulates what is expected of Senior Management (also known as Conducting Persons) with respect to their AIFM responsibilities. There is a EUR1.5 billion AUM threshold. Klasen-Martin says that if the management company has less than EUR1.5 billion it will require two Senior Managers, but the CSSF may accept that one can be located outside of Luxembourg and work there on a part-time basis, provided there is sufficient substance in Luxembourg to support the Senior Manager in their role.

Daniela Klasen-Martin, Managing Director and Country Head, Crestbridge Luxembourg

"If you are more than EUR1.5 billion in AUM, you will need at least two dedicated Senior Managers working full-time in Luxembourg," says Klasen-Martin. She adds:

"We have 30 people here in Luxembourg and approximately 17 of those are working for our management company so we have a lot of substance. We don't anticipate any immediate change to the way we are operating under the new Circular. Some of our staff have directorship mandates, including myself, but none of us are exceeding the limit set out by the CSSF. I think where you might see issues, with regards to substance, is with smaller AIFMs."

Independent risk management is one of the core operations that Crestbridge provides as a third party AIFM to investment funds. It has a dedicated team of seven risk managers, as well as a dedicated team providing the oversight and governance function. "We also have valuation officers, who oversee the valuation function of some of the funds on our platform; although some funds use an independent valuation agent.

"What we really focus on is risk management, control and oversight; these are key aspects to an AIFM," emphasises Klasen-Martin.

With the new substance requirements detailed in the Circular, the upshot is that it will take time and significant human resources for fund managers to set up their own Luxembourg AIFM.

As Klasen-Martin is keen to stress: "It's complicated to set up operations in Luxembourg. You have to compete for resources. We have all the licenses, we have the staff and this means fund managers can focus on what they do best relying on us to perform the regulatory functions and provide the substance. Currently, we act as the external AIFM to approximately 50 investment funds." ■

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Disclosure requirements for sustainable investments

By Arne Bolch

The 2016 Paris agreement on climate change as well as the United Nations 2030 Agenda for Sustainable Development and its Sustainable Development Goals may until recently not have been high on the agenda of asset management professionals. This may be about to change.

In the spirit of the agreement and the UN agenda, measures taken at European level have identified (or rather stated) a need for Europe's financial system to (i) contribute to sustainable and inclusive [economic] growth as well as to (ii) strengthen financial stability by incorporating environmental, social and governance ("ESG") factors into investment-decision making.

This is now going to have a very concrete impact on the asset management industry: The proposal of a new regulation published on 24th May 2018 by the European Commission (the "EC") concerning disclosure requirements relating to sustainable investments and sustainability risks.[1]

This proposed regulation shall be, amongst others, applicable to any fund regime existing within the EU, i.e. AIFMs and their AIFs, UCITS and their management companies as well as EuVECAs and EuSEFs. In addition to existing fund disclosure requirements, such as the UCITS prospectus, the article 23 disclosures for AIF as well as KIIDs and PRIIPs, the regulation establishes another disclosure regime aiming to reinforce investor protection by tackling a perceived lack of transparency on the side of financial market participants, i.e. funds and their managers, to disclose how sustainability factors are incorporated into their respective investment decision process and ultimately endeavours to reduce investors' costs related to the evaluation of the sustainability risks.

Under the disclosure regime, qualifying financial market participants, such as the aforementioned funds and their managers,

Arne Bolch, Partner at GSK Luxembourg SA

would, amongst others[2], be required to disclose to investors at a pre-contractual stage information concerning:

(a) the procedure and conditions applied for integrating sustainability risks within the investment decision-making process of the relevant fund; as well as

(b) the extent to which sustainability risks are expected to have a relevant impact on the returns of the fund; and

(c) Information of how the remuneration policies applicable to the relevant fund or manager are consistent with the integration of sustainability risks and are in line, where relevant, with the sustainable investment target of the fund in question.

These disclosures shall then be achieved by establishing written policies on the integration of sustainability risks into the investment decision-making process as well as the attribution of a sustainability profile for every financial product or fund to be published on a website referring to that fund. Further, all the information of the websites must be kept up-to-date, and where any changes occur, the explanation of the change is also required. Lastly, the relevant information concerning the offered financial products must be provided in the periodical reports, i.e. the relevant funds' annual and semi-annual report, to the extent applicable.

While of course the regulation pursue a laudable cause that certainly any asset management firm or fund will be supportive of, the regulation endeavours to link relatively general and as of yet (within the regulation) largely undefined sustainability considerations with very concrete investment returns and the remuneration of asset management professionals. It is therefore advisable for any asset management firm to monitor the development of the regulation to ensure that the sustainability considerations are going to be implemented in workable form. ■

1. Proposal for a regulation of the European Parliament and of the Council of 24 May 2018 on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341.

2. Please note that there are more detailed disclosure requirements envisaged, which are beyond the scope of this article, such as regarding funds pursuing sustainable investments and/or aiming at following an index or carbon emission reduction. Also, website disclosures are required by the regulation and marketing communications shall not defeat the purpose of the sustainability disclosures.