

AML/CFT FRAMEWORK OF INVESTMENT FUNDS: IN THE WAKE OF EU HARMONIZATION, WHERE DO WE STAND IN LUXEMBOURG?

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On 20 July 2021, the European Commission (Commission) released an ambitious package of legislation in order to strengthen and harmonize measures on anti-money laundering and the countering of terrorism financing (AML/CFT) across the European Union (EU).

This package includes proposals for: a new EU Directive which will repeal and replace the current 4th and 5th AML/CFT Directives, an EU Regulation which will repeat and enhance most of the requirements contained at Directive level, an EU Regulation which will create an AML/CFT authority at EU level and an EU Regulation which will repeal and replace the current EU Directive 2015/847 on information accompanying transfers of funds and provide for an extension to crypto assets and their service providers.

The Commission intends to implement a so-called EU single rulebook on AML/CFT, in particular with the use of EU Regulations, which are of direct application into local law. The Commission's main aim in doing so is to harmonize the AML/CFT framework across Europe, especially when it comes to the scope of application, transparency, the professional obligations and measures and the supervision by, and cooperation with, authorities.

This package of legislation is currently being reviewed by, and discussed among, the various stakeholders, and should be fully implemented and applicable gradually within the next few years.

Unfortunately, the new AML/CFT single rulebook will not introduce sector-specific provisions, so current questions and uncertainties around how to apply certain provisions of the AML/CFT regulations to the collective investment sector, and more particularly to alternative investment funds, will not be addressed at EU level. Indeed, one may question if it is even possible to harmonize rules across jurisdictions where there may be different applications of such rules across sectors with-

in each jurisdiction, or even within the same sector in a given jurisdiction.

Taking the Luxembourg collective investment sector as an example, there are different requirements in terms of the AML/CFT framework and the implementation of AML/CFT obligations depending on the activities, legal structures, regulatory status or operational set-up of the professional at hand.

In particular, one may find different requirements among the various alternative investment fund vehicles available in the Luxembourg toolbox, mainly split between the fund vehicles that are supervised by the Luxembourg Supervisory Commission of the Financial Sector (CSSF) and those that are not supervised by the CSSF (themselves split between the reserved alternative investment fund (RAIF) and the other alternative investment funds).

With the substantial growth of the fund industry and thus the increase of the AML/CFT risk deriving from this sector, the various authorities have brought some clarity and certainty around the applicable rules through regulations, circulars, guidelines and FAQs, although some questions remain to be addressed.

I. THE FUND INDUSTRY IN LUXEMBOURG

AML/CFT considerations are at the heart of discussions of the Luxembourg authorities, the associations, service providers and other stakeholders of the fund industry because of the space that investment funds occupy within the financial sector in Luxembourg (circa €5.5 trillion of assets under management¹ – with an 8% rise in one year² – compared to circa €500 billion in the private banking sector and circa €230 billion in the insurance companies), whilst the financial sector itself represents more than a quarter of Luxembourg's gross domestic product.³

1. ALFI statistics (February 2022).

2. *Ibid.*

3. The Economist Intelligence Unit (March 2021), Statec, Deloitte analysis; Statista August 2021.

Indeed, Luxembourg is the largest fund domicile in Europe, in particular due to its historical UCITS exposure.⁴

There has been continuous growth in Luxembourg's alternative investment funds since the implementation of the Alternative Investment Fund Managers Directive (AIFMD). They represented €935 billion of assets under management at the end of 2021, compared to €815 billion at the end of 2020 and €560 billion at the end of 2015.⁵

This success story was definitely facilitated by the central geographical position of the country, its pre-existing UCITS experience, its strong service infrastructure and its broad range of investment vehicles, to which additional non-supervised (and thus quick-to-market) vehicles were brought, namely the special limited partnership in 2013 and the RAIF in 2016.

As a result of the above evolution, the Luxembourg fund industry is likely to be more exposed to risks, including of money laundering and terrorism financing (ML/TF). This is even more applicable when it comes to alternative investment funds, as they generally imply an important cross-border dimension in terms of investors and investments, less transparency, various distribution channels, a complex structuring and split, decentralized and outsourced functions to group and third-party service providers or other intermediaries in different countries.

All of these factors contribute to increasing the risk of alternative investment fund structures being used for fraudulent purposes. This risk is emphasized with funds which are not subject to any ongoing prudential supervision by any regulator, such as the RAIF or other non-supervised alternative investment funds like a simple limited partnership.

An additional difficulty is the variety of structures possible with a Luxembourg alternative investment fund, making it difficult to ensure that all Luxembourg alternative investment funds are subject to an appropriate and identical AML/CFT framework. Indeed, such funds may be set up in different legal forms, they may be subject to different legal and regulatory regimes, and they may be managed, administered and operated by different entities located in different countries which are themselves subject to different legal and regulatory regimes.

II. THE AML/CFT FRAMEWORK APPLICABLE TO LUXEMBOURG ALTERNATIVE INVESTMENT FUNDS

Various Luxembourg stakeholders are working on these challenges, in particular by providing for fund-specific AML/CFT rules and guidance on, and by imposing an, AML/CFT framework and strengthening the requirements at the level of the fund vehicle itself.

A. Legal and Regulatory AML/CFT Regime

To date, there is no perfect harmonization (yet) within the various Luxembourg alternative investment fund vehicles, to ensure there are common rules applicable to all vehicles on the one hand and specific rules applicable to certain vehicles on the other hand.

The main text providing for the common AML/CFT framework is the Luxembourg law of 12 November 2004 on AML/CFT (the AML Law).

This starting point has itself raised questions with respect to alternative investment funds. Indeed, article 2 of the AML Law, which lists all professionals in scope of that law, does not expressly cover alternative investment funds or the various Luxembourg vehicles apart from the CSSF-supervised ones. However, it covers broadly the "undertaking for collective investment marketing its units or shares" in the definition of "financial institution".

Given that an alternative investment fund must be an undertaking for collective investment that is raising capital from one or more investors as per the definition in the Luxembourg law of 12 July 2013 on alternative investment fund managers, it has been commonly agreed that all alternative investment funds governed by Luxembourg laws would fall within the scope of the AML Law.

Therefore, all Luxembourg alternative investment funds must, at their own level (and not only at the level of their manager or other service providers), adopt a complete AML/CFT framework.

Another key text applying to all Luxembourg alternative investment funds is the Luxembourg law of 19 December 2020 on financial restrictive measures (repealing the law of 27 October 2010) (the Sanctions Law), as it applies to all legal persons established in Luxembourg.

In addition to the AML Law, other texts such as laws, Grand-ducal regulations, Grand-ducal decrees and other national or supra-national rules relating to AML/CFT

4. EFEMA Quarterly Statistical Release (March 2022, no. 88).

5. EFEMA Quarterly Statistical Releases (February 2016, no. 64, March 2021, no. 84 and March 2022, no. 88).

may be applicable or may serve as guidance to Luxembourg alternative investment funds.

Specific rules applying to certain vehicles would instead generally consist of regulations, circulars and other documents issued by the organizations and authorities supervising these vehicles.

The main distinction is the one between the vehicles under the prudential supervision of the CSSF (*UCI* Part II,⁶ *SIF*⁷ and *SICAR*⁸) and the other RAIFs, limited partnerships and other non-supervised vehicles). Indeed, CSSF-supervised vehicles are subject to the rules issued by the CSSF, which are not binding upon non-CSSF supervised vehicles.

Also, another distinction is made between the RAIF on the one hand and the other non-supervised vehicles on the other hand, with specific rules issued by the Administration de l'Enregistrement, des Domaines et de la TVA in Luxembourg (AED) with respect to RAIFs only. That being said, one can expect that such rules will at some point apply to the other non-supervised vehicles as well, given that they are subject to the supervision of the AED for AML/CFT purposes in the same manner as RAIFs according to article 2-1(8) of the AML Law.

In any event, if not binding upon certain Luxembourg alternative investment fund vehicles, such specific rules nevertheless constitute useful guidance to them in the implementation of their AML/CFT framework.

In particular, CSSF Regulation 12-02 provides details on how to apply and comply with the general obligations laid down in the AML Law.

B. The AML/CFT Obligations of Luxembourg Alternative Investment Funds

1) The Obligations Deriving From the AML Law

According to Chapter 2 of the AML Law, the main professional obligations of a Luxembourg alternative investment fund are the following, which shall apply both to the liabilities side (i.e. with respect to investors) and the asset side (i.e. with respect to investments) as well as in relation to delegates and any other party with whom the fund intends to enter into a business relationship (in each case, we will refer to a transaction herein):

a. Performance of an Assessment of the AML/CTF Risk to Which It Is Exposed and Take Measures to Mitigate Such Risks⁹

In order to determine the extent of due diligence measures it needs to apply with respect to its activities, an alternative investment fund shall determine the level of risk of ML/TF assigned to such activities by taking a holistic approach.

In particular, it shall identify and assess the inherent risk of its activities taking into account certain risk factors: this is the risk-based approach.

The AML Law requires incorporating supranational and national risk assessments.

According to the CSSF ML/TF subsector risk assessment for the collective investments of January 2020, the inherent risk of the activities of a Luxembourg alternative investment fund manager is medium-high whilst its residual risk (i.e. after applying mitigating measures) can be medium-low.

The CSSF has identified key vulnerabilities in the alternative investment sector which are, among others, the high volume of assets, the presence of politically exposed persons (PEPs), the use of cross-border distribution, the involvement of non-supervised actors, the lack of liquidity and transparency compared to traded securities, weaknesses in the name screening process and in the oversight of delegates and service providers, inadequate risk scoring as well as the lack of detailed procedures.

Annex IV of the AML Law provides for non-exhaustive lists of factors and types of evidence that may demonstrate a higher risk. The most common risk factors identified are the following:

- country or geographic risk: parties or transactions (a) located in countries or geographic areas identified by the Financial Action Task Force (FATF) or another regional, national or international body as being involved in ML/TF, having significant levels of organized crime or having weak governance, law enforcement and regulatory regimes (including weak AML/CTF regimes); or (b) subject to sanctions, embargoes or similar measures issued by international organizations; countries that are considered by the FATF, the EU and any regulatory body in Luxembourg as presenting higher risk of ML/TF must be considered as high risk by default;

6. Undertaking for Collective Investments governed by Part II of the Luxembourg law of 17 December 2010.

7. Specialized Investment Fund governed by the Luxembourg law of 13 February 2007.

8. Investment Company in Risk Capital governed by the Luxembourg law of 15 June 2004.

9. Art. 2-2 of the AML Law.

- counterparty risk: a counterparty that is (a) sanctioned by the relevant national competent authorities for non-compliance with the applicable AML/CTF regime; (b) a PEP or a person closely associated with a PEP; (c) residing in or having its primary source of income generated from a high-risk country or a country considered to be uncooperative from an AML/CTF perspective; (d) structured in a complex, non-transparent or unusual manner; or (e) subject to a risk of sanction or accusations relating to ML/TF;
- product, service or transaction risk: a product, service or transaction that is (a) located in, settled or paid in a high-risk country; (b) particularly subject to fraud and market abuse; (c) paid using physical cash or new technologies or payment methods not used in the normal course of business of the relevant parties involved; (d) paid by an unknown third party; (e) involving oil, weapons, precious metals, tobacco or involving goods having a rare cultural, historical, religious or scientific value; and
- distribution channels: a transaction involving an intermediary that is (a) suspected of or sanctioned for criminal activities; (b) located in a high-risk country or a country with a weak AML/CTF regime; or (c) not complying with the applicable AML/CTF regime or has weak AML/CTF procedures, policies or controls.

The CSSF provides for additional requirements or guidance (in particular in CSSF Regulation 12-02) that are applicable to CSSF-supervised funds, including the following:

- the obligation to proceed to a risk assessment at general level and at individual level (including specific transactions or business relationships as further detailed in said Regulation);
- details on the risk factors to be considered (further details being in CSSF Circular 21/782 on the adoption of the revised guidelines by the European Banking Authority (EBA) on money laundering and terrorist financing risk factors); and
- the obligation for the management body of the fund to document, approve and review annually the policies and procedures of the fund, including its risk-based approach based on the risk appetite established for the fund.

b. Application of Due Diligence and Monitoring Measures Using a Risk-Based Approach¹⁰

Once the risk has been identified and assessed, it needs to be mitigated by applying AML/CFT due diligence and monitoring measures using a risk-based approach.

The risk-based approach shall take into consideration a number of factors such as the commercial rationale for the transaction, the nature, type and country or geographic area of the parties and assets involved, the nature and value of the transaction, the source of funds used for the transaction and the structure of the transaction.

Based on the above, the investors, assets or counterparties at hand shall be classified as:

- low risk: generally involving financial institutions or companies regulated or listed in a low-risk country;
- medium risk: where neither the low risk classification nor the high risk classification apply; or
- high risk: generally involving a PEP, a resident in offshore regions or in countries which do not act in accordance with the FATF recommendations or are considered as representing high risk, companies with bearer shares, non-profit organizations, higher-risk sectors and professional groups and trusts.

Depending on the risk assessment of the relevant transaction, and thus the features and circumstances of the relevant transaction, an enhanced, standard or reduced level of due diligence shall be performed.

The AML Law provides for situations in which enhanced due diligence is mandatory (and where the approval of senior management¹¹ is required) and for situations in which simplified due diligence may be applied. Other organizations and authorities such as the FATF, the EBA, the Association of the Luxembourg Fund Industry or the CSSF have also provided guidance in that respect as well as examples of verifications to make and information and documents to collect in each case.

The initial due diligence performed for a transaction shall be documented by the fund.

The result of the initial due diligence performed for a transaction shall be reviewed and monitored periodically. The frequency thereof will depend on the features and circumstances inherent to the transaction and the parties involved.

The CSSF provides for additional requirements or guidance (in particular in CSSF Regulation 12-02) which are applicable to CSSF-supervised funds, including the following:

10. Art. 3(1) to 4(1) of the AML Law.

11. The senior management would generally be the management body of the fund, but this can also be the RC if within its mandate. Actually, for CSSF-

supervised funds, it shall be at least the RC according to CSSF Regulation 12-02.

- the obligation to implement a customer acceptance policy which includes a specific examination and acceptance procedure for the customers likely to represent a high risk level of money laundering or terrorist financing;
- details on how to manage due diligence involving a PEP or a high-risk country or generally presenting a high risk;
- measures to be taken with respect to transfer of funds;
- the obligation to identify any intermediary, the persons purporting to act on its behalf and its beneficial owners and to verify their identity, where applicable, according to a risk-based approach; and
- the obligation to implement enhanced due diligence measures for the business relationship qualified as similar to a correspondent relationship with any intermediary investing on behalf of others.

c. Adequate Internal Management¹²

The alternative investment fund is required to have adequate internal management that enables it to comply and implement its AML/CFT obligations in order to mitigate and manage its inherent risks.

This covers, in particular, the implementation of policies, procedures and controls establishing the AML/CFT framework of the alternative investment fund, based on the relevant AML/CTF risks, which is proportionate to the specific nature of its activities and organization.

Internal policies, procedures and controls shall include model risk management methods, customer due diligence, cooperation, record keeping, internal control, regular training, employee screening and, where appropriate with regard to the size and nature of the business and the risks of ML/TF, an independent audit function to test such internal policies, controls and procedures.

Also, the alternative investment fund will have to appoint a person within the members of its management body or effective direction who will be responsible for compliance with AML/CTF obligations (the RR) and, if appropriate due to the size and activities of the alternative investment fund, a person of appropriate seniority who will be responsible for the control of compliance with AML/CTF obligations (the RC).

The AML Law itself does not provide for further requirements in relation to the person acting as RR and, if any,

the person acting as RC, but guidance may be found in that respect in certain CSSF and AED publications.

In particular, the CSSF provides for additional requirements or guidance (in particular in CSSF Regulation 12-02) that are applicable to CSSF-supervised funds, including the following:

- the list of policies, procedures and controls that shall be implemented, approved by the management body of the alternative investment fund and reviewed periodically;
- the matters that shall be covered in such policies and procedures, and the inclusion of associated predicate offenses, training, awareness-raising and recruitment therein;
- the information that shall be covered in the AML/CFT policy; and
- the obligation to appoint both a RR and an RC, with further details on the eligibility criteria and responsibilities to be found in the CSSF FAQ on the persons involved in AML/CFT for a Luxembourg investment fund or investment fund manager supervised by the CSSF for AML/CFT purposes (it being noted that similar obligations apply to RAIFs according to the AED FAQ on the persons involved in AML/CFT for a Luxembourg RAIF supervised by the AED for AML/CFT purposes).

d. Cooperation with the Authorities and Reporting of Suspicious Activities¹³

Pursuant to Article 5 of the AML Law, alternative investment funds and their management body, RR and RC, if any, have a general duty of cooperation with the Luxembourg authorities responsible for combating ML/TF.

Also, they are obliged to inform through the goAML platform, without delay and on their own initiative, the Financial Intelligence Unit (FIU) of the office of the state prosecutor at the Luxembourg district court when there is knowledge, suspicion or there are reasonable grounds to suspect that ML/TF is being committed or has been committed or attempted.

The management body, the RR or the RC, if any, is further obliged to provide (without delay) to the FIU, at its request, any information in respect of ML/TF. This obligation includes the submission of the documents on which the information is based.

12. Art. 4(1) of the AML Law.

13. Art. 5(1) of the AML Law.

Where persons, entities or groups subject to financial sanctions are identified, and without prejudice to the obligations referred to above, the required restrictive measures shall be applied without delay and the authorities competent for financial sanctions shall be informed. A copy of this communication shall be sent to the CSSF at the same time.

The CSSF provides for additional requirements or guidance (in particular in CSSF Regulation 12-02) which are applicable to CSSF-supervised funds, including the following:

- the obligation for the RC to submit a report to the management body of the fund on at least an annual basis and the obligation for CSSF-supervised funds which are self-managed or which are managed by a foreign manager to submit the annual RC report to the CSSF, with further details on the CSSF expectations to be found in the CSSF FAQ on the RC report;
- the obligation for the approved statutory auditor of the fund (unless it has appointed a Luxembourg or foreign manager) to submit to the CSSF an annual AML/CFT report with respect to the fund's compliance, as further explained in CSSF Circular 21/788;
- the obligation to provide to the CSSF an annual AML/CFT questionnaire (it being noted that the AED is also proceeding to an annual AML/CFT survey towards RAIFs);
- details on the measures and requirements with respect to suspicious transactions and activities and the reporting thereof to the FIU; and
- information with respect to on-and-off site inspections.

C. The Obligations Deriving From the Sanctions Law

The Sanctions Law imposes on Luxembourg alternative investment funds financial restrictive measures adopted by the United Nations and the EU against certain States, persons, entities and groups such as the prohibition or restriction to conduct financial activities or to provide financial or other services, the freezing of funds, assets or other economic resources or such other measures established by virtue of a Grand-ducal decree.

The aim is notably to ensure that funds will not be made available to sanctioned States, persons, entities or groups.

For that purpose, before admitting an investor or entering into a transaction, controls shall be performed related to

sanctions and proliferation financing on a mandatory basis. This includes the obligation to identify without delay:

- the States, persons, entities or groups subject to restrictive measures in financial matters in the context of the fight against terrorist financing, including, notably, those implemented in Luxembourg via EU regulations directly applicable in national law or through the adoption, among others, of ministerial regulations; and
- the States, persons, entities or groups subject to restrictive measures in financial matters, including, notably, those implemented in Luxembourg via EU regulations directly applicable in national law or, where appropriate, through the adoption of regulatory texts implementing them at national level.

These sanctions include targeted financial sanctions (TFS) related to terrorism and terrorist financing and TFS related to the prevention, suppression and disruption of proliferation of weapons of mass destruction and their financing. They also include other regimes of restrictive measures adopted by the EU.

In addition, a PEP screening for all relationships linked to the investor or the investment shall also be performed.

In practice, these controls consist of a screening relating to the investor, its beneficial owner, the asset (i.e. the underlying and/or the issuer, where applicable), the counterparty (i.e. the buyer or the seller) and any PEP involved against the lists of financial sanctions adopted by the EU and the United Nations.

III. THE ORGANIZATION OF THE PERFORMANCE OF THE OBLIGATIONS WITHIN AN ALTERNATIVE INVESTMENT FUND STRUCTURE

A. The Responsibility of the Alternative Investment Fund

Since the professional subject to the AML/CFT obligations is the alternative investment fund itself, it will be and will remain responsible for the implementation of, and compliance with, such obligations, even if the fund receives support from (or has delegated the performance of such obligations to) its manager or service providers.

This means that the manager or service providers of the fund will not be legally responsible for the AML/CFT obligations of the fund they manage or provide services to, although they may be contractually responsible.

Actually, pursuant to article 8-4 of the AML Law, the alternative investment fund, the members of its manage-

ment body and the other persons involved with its AML/CFT obligations (such as the RR and the RC) may be held responsible for the fund's non-compliance with its AML/CTF obligations.

Article 8-4 of the AML/CTF Law also provides for a list of possible sanctions, including in particular a warning, a blame, a public statement, the withdrawal of any registration or authorization, the prohibition to exercise certain functions or an administrative fine.

Internally, the RR and the RC may be liable to the fund, *inter alia*, based on articles 1991 *et seq.* of the Luxembourg Civil Code due to their mandate and, if they are members of the management body of the fund, based on the Luxembourg law of 10 August 1915 on commercial companies.

Separately, the manager and the service providers of the fund have their own AML/CFT obligations relating to their own activities, of which they are responsible.

It is worth noting that one of the obligations of an alternative investment fund manager under CSSF Circular 18/698 is to apply precautionary measures with respect to the assets of the alternative investment fund under its management. As a result, the manager will either take over the performance of the fund's AML/CFT obligations or have to verify otherwise that such obligations are being performed by, or for, the fund.

B. The Outsourcing of AML/CFT Obligations

The AML Law allows for the performance of due diligence measures by third parties subject to the conditions and requirements laid down in article 3-3 of the AML Law. In particular, the third party must itself apply due diligence requirements and record-keeping requirements that are consistent with those of the AML Law and Directive (EU) 2015/849 (the AML Directive) and have their compliance with the requirements of this law, the AML Directive or equivalent rules applicable to them, supervised in a manner consistent with Chapter VI, Section 2 of the AML Directive. Also, the third party shall not be established in a high-risk country, unless it is a branch or majority-owned subsidiary of a professional established in the EU and that it is fully compliant with the group-wide policies and procedures in accordance with article 4-1 or article 45 of the AML Law.

In Luxembourg, it is quite common that the fund's transfer agent (in particular in respect of investors) or the fund's investment advisor or portfolio manager (in particular in respect of investments) provide support on, or be delegated, the screening and due diligence obligations by the fund or its manager.

In the event of an outsourcing, the alternative investment fund will have to monitor the performance of its obligations by the delegate on a regular basis.

Where the alternative investment fund is supervised by the CSSF, it will be subject to additional requirements under CSSF Regulation 12-02.

Also, where the outsourcing is requested by the alternative investment fund's manager, the manager will be subject to the same additional requirements as well as the requirements under CSSF Circular 18/698.

Finally, where the delegate is supervised by the CSSF, it may itself be subject to certain requirements that will indirectly impact the performance of the delegated services.

C. The Use of Intermediaries

The alternative investment fund may transact through intermediaries, such as placement agents, distributors, or primer, clearing and executing brokers, and have no direct contact with the actual investor, buyer, seller or asset (as the case may be).

It seems generally agreed that due diligence shall be performed on the counterparty in the transaction, so that it is key to determine who that counterparty is: the intermediary or the actual buyer, seller or asset (as the case may be).

This will mostly depend on whether the intermediary acts as principal or agent on behalf of the actual investor, buyer, seller or asset (as the case may be).

If the intermediary is considered as the counterparty, the due diligence measures with respect to the counterparty shall be performed on such intermediary and the fund will rely on such intermediary to apply at least equivalent due diligence measures on the actual investor, buyer, seller or asset (as the case may be).

IV. IS THE PERFORMANCE OF THE AML/CFT OBLIGATIONS OF ALTERNATIVE INVESTMENT FUNDS HARMONIZED IN LUXEMBOURG?

It derives from the above that the main AML/CFT professional obligations of Luxembourg alternative investment funds are generally harmonized.

However, one cannot conclude the same when it comes to their actual implementation and performance.

Indeed, the detailed guidance on what is expected from alternative investment funds differ or vary depending

on the set-up and structure of the fund, in particular whether the fund is supervised by the CSSF or not, whether its manager is in Luxembourg, in the EU or in a third country, whether it outsources certain AML/CFT obligations or not and if so, whether the delegate is in Luxembourg (CSSF-supervised or not), in the EU or in a third country.

Such discrepancies derive from the fact that a Luxembourg alternative investment fund does not operate on a stand-alone basis and requires the involvement of different actors having different activities, operations, subject to different laws and regulations in dif-

ferent jurisdictions and supervised by different authorities.

Whilst full harmonization does not seem possible in light of the observations made above (and may not even be appropriate), one could envisage the opportunity of the upcoming general EU harmonization to align and define the Luxembourg AML/CFT framework of the various types of alternative investment funds. For example, through legal provisions and regulations that would be binding upon the various fund vehicles themselves, irrespective of their set-up and structure, and that would have to be applied by any delegate or service provider of the fund in a consistent manner. ■