

## Headlines

### • **EC : Public consultation on UCITS depositary functions**

The European Commission launched in a wide-ranging public consultation on UCITS depositary functions in July. The Objective of the consultation paper was to reassess the appropriateness of existing methods to the regulation and supervision of this sector. The consultation sought input from investors, the depositary industry, asset managers, other financial institutions and public authorities. The objective is to clarify the regulatory framework applicable to UCITS depositaries, with a view to increasing the level of the protection of UCITS investors. Read the Consultation paper, the feedback statement or the individual contributions:

[http://ec.europa.eu/internal\\_market/consultations/2009/ucits\\_depositary\\_function\\_en.htm](http://ec.europa.eu/internal_market/consultations/2009/ucits_depositary_function_en.htm)

### • **EC : strengthening the safety of derivatives markets**

The European Commission has adopted a *Communication* for ensuring efficient, safe and sound derivatives markets. The Communication sets out future policy actions to increase transparency of the derivatives market, reduce counterparty and operational risk in trading and enhance market integrity and oversight. The Commission will come forward with legislative proposals in 2010 which will be in line with the G20 Pittsburgh statement and accompanied by a thorough impact assessment.

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/09/465&format=HTML&aged=0&language=EN&guiLanguage=en>

### • **EC : withholding tax relief on securities income**

The European Commission has adopted a *recommendation* that outlines how EU Member States could make it easier for investors resident in EU Member States to claim withholding tax relief on dividends, interest and other securities income received from other Member States.

The recommendation also suggests measures to eliminate the tax barriers that financial institutions face in their securities investment activities while at the same time protecting tax revenues against errors or fraud. The recommendation is designed to provide guidance to Member States in how to ensure that procedures to verify entitlement to tax relief do not hinder the functioning of the Single Market.

### • **EC : new legislative proposal in terms of financial supervision**

On 23 September 2009, the European Commission has adopted a legislative package to strengthen financial supervision in Europe.

The aim of these enhanced cooperative arrangements is to reinforce financial stability throughout the EU; to ensure that the same basic technical rules are applied and enforced consistently; to identify risks in the system at an early stage; and to be able to act together far more effectively in emergency situations and in resolving disagreements among supervisors.

It envisages the creation of a European Systemic Risk Board (ESRB), which is to monitor and assess risks to the stability of the EU's financial system as a whole. Where necessary, it is to issue warnings and recommendations to prevent dangerous situations from materialising.

The package also suggests the creation of a European System of Financial Supervisors (ESFC) along with the creation of three new European Supervisory Authorities. These authorities for the banking, securities and pension sectors will be responsible for the coordination and facilitation of the work of national financial market supervisors.

[http://ec.europa.eu/internal\\_market/finances/committees/index\\_en.htm](http://ec.europa.eu/internal_market/finances/committees/index_en.htm)

• **CESR advice to the Commission on the level 2 measures regarding the KID:** <http://www.cesr.eu/index.php?page=groups&id=28>

• **CESR consultation paper on understanding the definition of advice under MiFID**

On 14 October 2009, CESR published a consultation on the definition of advice under MiFID. This paper seeks to clarify and illustrate situations where firms will, or will not, be considered as providing investment advice. Investment advice is an investment service under MiFID, which is why the distinction is important [read more](#)

CESR invites responses to the [consultation paper](#) by 14 December 2009.

• **CESR consultation: "A common definition of European money market funds"**

On 20 October 2009 CESR launched a [consultation](#) regarding "A common definition of European money market funds" (Ref CESR/09-850). CESR invites responses to this consultation by 31 December 2009.

The consultation paper sets out CESR's proposals for a common definition of European money market funds. The key purpose behind a harmonized definition of money market fund (MMF) is to improve investor protection. This reflects the fact that investors in MMF expect the capital value of their investment to be maintained while retaining the ability to withdraw their capital on a daily basis. According to CESR's view, a common definition will also help provide a more detailed understanding of the distinction between funds which operate in a very restricted fashion and those which follow a more "enhanced" approach. [More](#)

**• CESR consults on inducements**

On 22 October 2009 CESR launched a consultation regarding “Inducements: Good and poor practices” (Ref CESR/09-958). CESR invites responses to this consultation by 22 December 2009.

The purpose of this consultation is to highlight some of the observed industry practices on the MiFID inducements rules and to provide investment firms with an understanding of how CESR views such practices. [Read more](#)

**• EFAMA – SWIFT Update on Progress in Fund Processing Standardization**

Automation rate of cross-border fund orders reaches 69% in first half of 2009  
[Press Release](#) and [Report](#)

**• The Council of the Islamic Financial Services Board (IFSB) admits new organisations into its membership**

Among the eight newly admitted members figures Banque Centrale du Luxembourg [Press Release](#)

**• Luxembourg: international cooperation in fiscal matters**

With a view to enhance the international cooperation in fiscal matters, Luxembourg decided on 13 March 2009 to comply with the OECD standard in terms of exchange of information on demand between tax authorities.

So far, 20 double tax treaties have been concluded based on this model.

On 1 October 2009, the Luxembourg Ministry of Finance submitted draft law N° 6072 to the Chamber des Députés.

[http://www.impotsdirects.public.lu/archive/newsletter/2009/nl\\_061009/Projet\\_de\\_loi\\_no\\_6072.pdf](http://www.impotsdirects.public.lu/archive/newsletter/2009/nl_061009/Projet_de_loi_no_6072.pdf) in order to adapt its current legal framework.

**• Double Tax Treaties with India**

Following its ratification at national level, a double taxation avoidance agreement between Luxembourg and India entered into force.

The rules are applicable in Luxembourg:

- as far as withholding taxes are concerned, to income attributed on the or after the 1 January 2010;

- as far as other income taxes and property taxes are concerned, to taxes that are due for every fiscal year beginning with the or after the 1 January 2010.

In Memorial A – N° 137 of 16 June 2009 :

[http://www.impotsdirects.public.lu/legislation/legi09/M\\_morial\\_A\\_-\\_No\\_137\\_du\\_16\\_juin\\_2009.pdf](http://www.impotsdirects.public.lu/legislation/legi09/M_morial_A_-_No_137_du_16_juin_2009.pdf)

- **Double tax treaty with Spain**

This treaty removes Luxembourg from the list of tax havens under Spanish law. [\*The official announcement by the Luxembourg Government\*](#)

- **ALFI welcomes the Luxembourg Government's proposal to exempt Microfinance Investment Funds from subscription tax**

[\*Press release\*](#)

## **ALFI publications & recent events**

- **Hedge Fund Survey**

[\*Introduction & principal results\*](#)

Luxembourg Hedge funds sector [\*part I\*](#) and [\*part II\*](#)  
[\*Global Hedge Fund & FoHF sectors\*](#)

- **Your bridge between Europe and China: Luxembourg**

Discover our new [\*brochure\*](#)

- **Survey on Real Estate Investment Funds (REIFS)**

The [\*2009 Survey\*](#) provides data and information on direct real estate funds as well as funds of real estate funds domiciled in Luxembourg as at 31 December 2008. It is based on the results of a questionnaire sent to all ALFI members and includes a number of key questions in relation to each fund.

The scope has been enlarged to cover, for the first time, data on real estate SICARs.

- **European Alternative Investment Funds Conference**

The third edition of ALFI's conference took place on November 24 & 25 in Luxembourg with an attendance of over 350 industry professionals. The format with three specialist workshops concentrating on hedge funds, private equity and real estate funds proved again a huge success.

## ALFI Upcoming Events

- **1 December 2009 : ALFI Seminar Frankfurt**

*[Programme](#) and [registration form](#)*

Join us ! Entry is free.

- **26 & 27 January 2010: ALFI Roadshow to Switzerland**

Fund Industry seminars will take place in Zurich and Geneva.

*[Draft programme](#).*

The final programme and registration form will be available soon.

- **9 February: ALFI SRI Conference**

Programme, sponsorship opportunity and registration details :

[http://www.alfi.lu/index.php?id=70&tx\\_mjseventpro\\_pi1\[showUid\]=24&cHash=b412d8c](http://www.alfi.lu/index.php?id=70&tx_mjseventpro_pi1[showUid]=24&cHash=b412d8c) 243

- **25 February: ALFI & PRIM Risk Management Conference**

*[Programme](#), [Sponsorship agreement & Information](#)*

- **23 & 24 March: ALFI Spring Conference**

Centre de Conférences Luxembourg Kirchberg

FOCUS ON THE INVESTOR

Market Trends – Infrastructure – Products – Regulatory update

Draft programme will be published on our website [www.alfi.lu](http://www.alfi.lu) (events section)

SAVE THE DATE:

Tuesday, 23 March 2010:

ALFI Gala dinner - Philharmonie, Luxembourg

*[NOW open for exhibition and sponsorship](#)*

### ***Why Sponsor or Exhibit?***

This is ALFI's largest annual conference that presents the latest industry news and hot topics. Last year's conference attracted over 700 top level industry professionals from 30 countries as well as 41 Exhibitors. The conference will take place in Luxembourg's new conference centre which accommodates a larger audience and offers more exhibition space and improved networking facilities. Booths were fully booked in Spring 2009 and we therefore recommend that you reserve your space as early as possible.

This is a unique opportunity to position your company as a major player in the investment fund area, to meet with an impressive number of professionals of the fund industry in a single place over a two-day period and to increase brand visibility amongst key-decision makers.

- **25 March : ALFI Microfinance Conference**

Save the Date !

## **LuxembourgforFinance Events**

- **8 December Paris Conference**

- **«The European Financial Places after G20»**

organized by Luxembourg for Finance and Paris Europlace

[\*Invitation\*](#)

- **11-13 January 2010: Financial Mission Middle East**

The Agency Luxembourg for Finance is planning a financial mission to Dubai and Bahrain led by Mr Luc Frieden, Minister for Finance.

[\*Programme\*](#)

### **Impressum**

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