The Trust & Corporate Services Sector in Luxembourg

Autumn 2013
# Table of contents

1. Introduction 5

2. Luxembourg: a leading financial centre 6

3. The Trust & Corporate Services sector in Luxembourg 8
   3.1 What is the Trust & Corporate Services sector? 8
   3.2 The central role of the Trust & Corporate Services sector in Luxembourg 9
   3.3 Luxembourg: location of choice for the Trust & Corporate Services sector 11
   3.4 Trust & Corporate Services providers 12

4. LIMSA and its members 13

5. Trust & Corporate Services in the Luxembourg economy 14

6. The sector in 2013 18
   6.1 Introduction 18
   6.2 Market developments in Luxembourg 18
   6.3 Clients 20
   6.4 Employees 22

7. Economic barometer and outlook for the sector 24
   7.1 The barometer 24
   7.2 Putting the barometer into perspective: opportunities and challenges for the future 26

8. Appendices 33
   8.1 Overview of the tax framework in Luxembourg 33
   8.2 The legal framework in Luxembourg 36
      A. Holding companies (SOPARFs) 36
   8.3 The partnership (SCS) and the special partnership without legal personality (SCSp) 37
   8.4 Investment companies in risk capital (SICARs) 38
   8.5 Specialised investment funds (SIFs) 39
As President of our association, it gives me great pleasure to present to you our second report on the Trust & Corporate Services sector in Luxembourg, carried out by Deloitte Tax & Consulting in collaboration with our members.

In 2004, 15 of the leading Trust & Corporate Services providers got together to form LIMSA (Luxembourg International Management Services Association asbl), with the aim to promote the Luxembourg Trust & Corporate Services sector and represent its members’ interests with the authorities and various public bodies. Despite many providers merging, we now have 23 members.

Over the years, our association has been actively supporting and promoting the sector. For example, our association was the driving force behind the change of the Chamber of Commerce subscription system. We also sponsored a bill on Private Foundations in Luxembourg, which we hope the Chamber of Deputies will pass in the near future.

Through continuous innovation and improvement of the legal and regulatory environment, the Luxembourg government has helped our sector grow and develop.

The sector employs around 2,600 people and generates an estimated annual turnover of €500 million, making it one of the cornerstones of the Luxembourg financial centre and attracting many international investors to the Grand Duchy.

This report also describes the main investment vehicles available to Luxembourg providers and demonstrates the confidence that the major Trust & Corporate Services players have in the future of the industry.

Our members are available to answer any questions you may have regarding this study and I hope you will enjoy its reading.

Carlo Schlesser
President
LIMSA
The Trust & Corporate Services Sector in Luxembourg

Luxembourg, November 2013
Commissioned by the Luxembourg International Management Services Association (LIMSA)
info@limsa.lu

Deloitte Tax & Consulting
Pierre Masset: pmasset@deloitte.lu
1 Introduction

Located at the heart of Europe, the Grand Duchy of Luxembourg is a leading international financial centre.

Luxembourg’s social, legal and regulatory stability, as well as its skilled, multicultural and multilingual workforce, have been attracting economic and financial players from all over the world for many years.

In order to help these groups to set up and develop, the Grand Duchy has over time built up an attractive series of investment vehicles such as holding companies (SOPARFs), investment companies in risk capital (SICARs), specialised investment funds (SIFs) and private wealth management companies (SPFs). This legal framework, combined with Luxembourg’s openness, has attracted investors and corporates from all over the world. In turn, this has boosted the development and growth of another industry: the Trust & Corporate Services sector.

There are currently around 340 Trust & Corporate Services providers in Luxembourg.

In the face of globalisation and increasing complexity of the regulations that govern their clients, they have become specialists in the incorporation, domiciliation and administrative management of companies.

Today, with the diversity and expertise of its Trust & Corporate Services providers, the industry has become one of the key assets of Luxembourg as a financial centre.
2 Luxembourg: 

a leading financial centre

With approximately 4,000 funds and €2,500 billion of assets under management, Luxembourg is the premier European financial centre in terms of investment fund domiciliation and second only to the United States at a global level. The Grand Duchy is also Europe’s leading captive reinsurance market, with 243 captive reinsurance companies, and the Eurozone’s leading private-banking market, with 145 private banks. The financial sector is now the largest contributor to the national economy (see graphs 1 and 2).

The development of undertakings for collective investment (UCIs), in the form of mutual funds (FCPs) or open-ended investment companies (SICAVs), has enabled Luxembourg to become an expert in fund management and administration.

Over the years, a specific regulatory framework has also been created for other types of investment vehicles: private equity and venture capital vehicles (SOPARFIs, SICARs), international pension funds (SEPCAVs, ASSEPs), specialised investment funds (SIFs), securitisation vehicles, private wealth management companies (SPFs, Private Trusts) and alternative investment management companies (SCS, SCSp). Today, there are about 45,000 investment and holding companies registered in Luxembourg (see graph 3).
The Trust & Corporate Services Sector in Luxembourg

- Designed for private equity investments
- Access to EU directives and double taxation treaties (analysis on a case-by-case basis)
- Active investment management
- Global custody tool
- Access to double taxation treaties (analysis on a case-by-case basis)
- Ideal structure for managers of alternative investment funds (AIFs)
- Subject to conditions, income tax transparency and wealth tax transparency
- Favourable tax regime for "carried interest"

<table>
<thead>
<tr>
<th>SICAR</th>
<th>SIF</th>
<th>SCS and SCSp</th>
<th>Private Trusts</th>
<th>Securitisation companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Designed for private equity investments</td>
<td>- Active investment management</td>
<td>- Ideal structure for managers of alternative investment funds (AIFs)</td>
<td>- Wealth and estate planning vehicle</td>
<td>- Securitisation of all asset classes and related risks</td>
</tr>
<tr>
<td>- Access to EU directives and double taxation treaties (analysis on a case-by-case basis)</td>
<td>- Global custody tool</td>
<td>- Subject to conditions, income tax transparency and wealth tax transparency</td>
<td>- Confidentiality preserved</td>
<td>- Access to EU directives and double taxation treaties (analysis on a case-by-case basis)</td>
</tr>
<tr>
<td>- Access to double taxation treaties (analysis on a case-by-case basis)</td>
<td>- Access to double taxation treaties (analysis on a case-by-case basis)</td>
<td>- Favourable tax regime for &quot;carried interest&quot;</td>
<td>- Numerous tax exemptions</td>
<td>- Wealth and estate planning vehicle</td>
</tr>
</tbody>
</table>

Source: CSSF / ABBL statistics

Graph 2: The Luxembourg banking sector

<table>
<thead>
<tr>
<th>Year</th>
<th>Balance sheet total (in € millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>1,200</td>
</tr>
<tr>
<td>2006</td>
<td>1,551</td>
</tr>
<tr>
<td>2007</td>
<td>1,561</td>
</tr>
<tr>
<td>2008</td>
<td>1,521</td>
</tr>
<tr>
<td>2009</td>
<td>1,491</td>
</tr>
<tr>
<td>2010</td>
<td>1,471</td>
</tr>
<tr>
<td>2011</td>
<td>1,431</td>
</tr>
<tr>
<td>2012</td>
<td>1,411</td>
</tr>
<tr>
<td>Aug. 13</td>
<td>1,451</td>
</tr>
</tbody>
</table>

Graph 3: Investment companies domiciled in Luxembourg (end of 2012)

<table>
<thead>
<tr>
<th>Company</th>
<th>Entities</th>
</tr>
</thead>
<tbody>
<tr>
<td>SICAR</td>
<td>~ 45,000</td>
</tr>
<tr>
<td>Securitisation companies</td>
<td>275</td>
</tr>
<tr>
<td>SPF</td>
<td>900</td>
</tr>
<tr>
<td>SIF</td>
<td>1,300</td>
</tr>
<tr>
<td>SOPARFI</td>
<td>1,531</td>
</tr>
</tbody>
</table>

Source: Luxembourg for Finance (www.lff.lu); ABBL – Securitisation in Luxembourg (www.abbl.lu); Deloitte estimates
3 The Trust & Corporate Services sector in Luxembourg

3.1 What is the Trust & Corporate Services sector?

The Luxembourg Trust & Corporate Services sector is regulated by article 1 (1) of the law of 31/05/1999. This law defines a Trust & Corporate Services operator as a natural or legal person that provides a registered office at its own address to one or more companies in which it is not exerting significant influence. In addition to the provision of a registered office, Trust & Corporate Services providers can offer a range of services related to this activity.

Companies with their registered office in Luxembourg are subject to Luxembourg law, with a broad range of specific legal structures to choose from. Domiciliation is therefore the service offered by a Trust & Corporate Services provider consisting of using its registered office as the registered office of its clients (companies). Companies with their registered office in Luxembourg are thus subject to Luxembourg law, meaning they enjoy access to many types of specific legal structures.

Besides offering the initial incorporation and domiciliation, the Trust & Corporate Services provider will accompany a project throughout its development, ensuring compliance with the law. As a result, it is often an important partner for companies and the clients that have entrusted it with their administrative management, company secretarial and accounting functions. A Trust & Corporate Services provider is therefore more than just a service provider and may be liable if it fails to properly monitor the companies’ actions on a daily basis.

Lastly, the Trust & Corporate Services provider has the legal obligation to know the identity of the persons for whom it is acting. This obligation covers the shareholders and members of the management bodies of the domiciled company, as well as its ultimate beneficial owners.

Section 3.3 takes a more detailed look at the specific attributes of Luxembourg and the qualities of its Trust & Corporate Services providers.
3.2 The central role of the Trust & Corporate Services sector in Luxembourg

Like bankers, lawyers and tax experts who help optimise the structure of their clients’ business and assets, Trust & Corporate Services providers play a central role in the growth of the country’s financial industry by offering various administrative services to their clients.

Once the initial structuring is complete, the vehicles are created and hosted, if necessary, by one of the Trust & Corporate Services providers, which will over time provide them the necessary support.

Trust & Corporate Services providers will offer their accounting, financial and tax expertise, either directly to end clients or indirectly as preferred partners of the various direct advisors of such clients.
Examples of synergies between the Trust & Corporate Services sector and other operators in the market

<table>
<thead>
<tr>
<th>Private banks</th>
<th>Alternative investment funds (PE/RE) and their management companies</th>
<th>Family offices</th>
<th>Lawyers and tax advisors</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Luxembourg is Europe’s leading private-banking market, with over €300 billion of assets under management*</td>
<td>- Luxembourg’s attractive regulatory and tax environment for alternative Private Equity and Real Estate funds has allowed extensive development of these types of investment structures</td>
<td>- The creation of SPF and its tax regime tailored to the management of private wealth has fuelled the growth of family offices in Luxembourg</td>
<td>- Lawyers and tax advisors are often the first port of call for international clients looking to set up a company in Luxembourg</td>
</tr>
<tr>
<td>- The existence of flexible and tailored legal structures is a key part of this success, especially for high-net-worth individuals</td>
<td>- The transposition of the AIFM directive into Luxembourg law in 2013 confirms the country’s intention to further enhance its attractiveness for such funds and their managers</td>
<td>- The creation of private trust vehicles will further boost this growth</td>
<td>- Thanks to their legal, regulatory and fiscal expertise, they will assist these clients through the various stages of creating a structure and choosing the most suitable vehicle and will then refer their clients to a Trust &amp; Corporate Services provider, which will in turn look after the clients’ subsequent administrative needs.</td>
</tr>
<tr>
<td>- The services offered by the Trust &amp; Corporate Services sector provide a major support to private banks to attract international clients for estate planning purposes (incorporation, domiciliation and administrative management of vehicles)</td>
<td>- Lastly, the recent creation of SCSp vehicles with their favourable tax provisions for international alternative fund managers should encourage them to incorporate their management companies in Luxembourg</td>
<td>- The growth of this activity has also been supported by a Trust and Corporate Services sector able to manage the domiciliation of family entities and to respond to their specific needs in relation to a very wide range of assets (e.g. private equity, boats, art, etc.)</td>
<td></td>
</tr>
<tr>
<td>- In addition to asset management services traditionally provided by private banks, Trust &amp; Corporate Services providers also offer their expertise in the administration of an ever-wider range of assets so they can meet all the requirements of high-net-worth individuals in a family office like fashion</td>
<td>- Their development is supported by Luxembourg’s existing Trade &amp; Corporate Services providers, highly experienced in fund administration and associated management structures</td>
<td>- It is currently estimated that family offices in Luxembourg manage around €10 billion of assets</td>
<td></td>
</tr>
</tbody>
</table>

* Source: ABBL – Banking and Finance in Luxembourg: Facts & Figures (end-2012)
3.3 Luxembourg: location of choice for the Trust & Corporate Services sector

Luxembourg is a member of the European Union and other leading international economic organisations such as the OECD. Its legal and regulatory framework complies with the requirements of these international organisations. This makes Luxembourg highly attractive, particularly when compared to other countries active in the Trust & Corporate Services sector considered as offshore jurisdictions.

Luxembourg’s financial centre is also known for its economic, legal and fiscal stability, as well as for the pragmatic dialogue between the government, the regulator and the private sector.

Finally, its openness and multicultural flair make it particularly attractive to foreign investors.

---

**A favourable framework for Trust & Corporate Services**

**Tailored regulatory framework**

- Member of the EU and the OECD
- Activity supervised by the Commission de Surveillance du Secteur Financier (CSSF) or the “Ordre des experts comptables” (OEC)
- Strict anti-money laundering rules
- Strong culture of investor protection
- Attractive tax environment for PE/RE type alternative fund managers
- Transposition of EU directives (including AIFMD) into national law

**Attractive economic framework**

- Largest investment fund market in Europe and second largest in the world (€2,584 billion of assets under management June 2013)*
- Largest wealth management market in Europe (€300 billion of assets under management - December 2012)*
- Largest captive reinsurance market in Europe (243 reinsurers and €10 billion of annual premia)*
- High level of political and social stability (AAA rating)
- Multicultural and multilingual environment with a highly qualified workforce
- Complete range of innovative and diversified financial services

**Stable tax environment**

- Accessible and proactive public decision-making authorities
- 64 double taxation treaties in force and 28 under negotiation (July 2013)
- Lowest standard VAT rate in the European Union (15%)
- Simple tax laws that comply with EU directives
- Attractive tax environment for PE/RE type alternative fund managers
- No withholding tax (under certain conditions) on dividends, interest and royalties
- One of the most favourable intellectual property tax regimes in Europe

* Source: ABBL – December 2012; Commissariat aux Assurances (www.commassu.lu); Alfi - Net assets under management in Luxembourg funds, June 2013 (www.alfi.lu)
3.4 Trust & Corporate Services providers

The activity of Trust & Corporate Services providers is open only to a few regulated and supervised professions such as banks or other financial and insurance professionals, lawyers (lists I and IV of the Bar), auditors and chartered accountants.

Some professionals choose to become a PSF (Financial Sector Professional) and subsequently perform the activity in a strictly regulated environment under the supervision of the Luxembourg regulator, the CSSF (Commission de Surveillance du Secteur Financier). In order to obtain this status, the PSF must have a fully paid-up authorised capital of no less than €125,000 and demonstrate suitable academic and professional qualifications. Domiciliary agents that wish to domicile vehicles regulated and supervised by the CSSF, such as SICARs and SIFs, and provide them with administrative services must first obtain PSF status.

There are currently thought to be around 340 Trust & Corporate Services providers in Luxembourg ranging in size from only a handful of employees to several hundred for the largest players.

Some current trends are putting players of smaller size under pressure:

• The growing complexity of regulatory constraints (PSF status required to domicile regulated structures, AIFM directive, FATCA, etc.) and of current legislation.

• Price pressure on lower added-value services, forcing companies to offer higher added-value services to clients. The growth of family offices in Luxembourg is an example of this: in order to enjoy official family office status and thus offer a broader range of services, it will become necessary to attain PSF status once the specific bill on this subject has been passed. The introduction of a Luxembourg version of limited partnership status (SCSp) to attract international alternative Private Equity (PE) and Real Estate (RE) funds will also require Trust & Corporate Services providers to offer them administrative management services that are tailored to their needs.

• The necessity to respond to clients needs in different jurisdictions around the world and to react promptly to legislative changes in these jurisdictions.

Source: CSSF- Number and breakdown by category of PSF (www.cssf.lu); Commissariat aux Assurances (www.commassu.lu); Luxembourg Bar; Deloitte estimates

(1) Some chartered accountants will offer domiciliation only as an auxiliary service to their traditional activities.
(2) Source: Luxembourg Bar - Lawyers who have indicated domiciliation as one of their specialist skills.
4 LIMSA and its members

The following are LIMSA members:

<table>
<thead>
<tr>
<th></th>
<th>Company Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Alter Domus S.à r.l.</td>
</tr>
<tr>
<td>2</td>
<td>Arendt Services S.A</td>
</tr>
<tr>
<td>3</td>
<td>ATC Corporate Services (Luxembourg) S.A. (1)</td>
</tr>
<tr>
<td>4</td>
<td>Paddock Corporate Services (2)</td>
</tr>
<tr>
<td>5</td>
<td>Capita Fiduciary S.A</td>
</tr>
<tr>
<td>6</td>
<td>Citco CBT (Luxembourg) S.A.</td>
</tr>
<tr>
<td>7</td>
<td>Crédit Agricole Luxembourg Conseil</td>
</tr>
<tr>
<td>8</td>
<td>Deloitte Luxembourg</td>
</tr>
<tr>
<td>9</td>
<td>Equity Trust Co. (Luxembourg) S.A.</td>
</tr>
<tr>
<td>10</td>
<td>Experta Corporate and Trust Services S.A., Luxembourg</td>
</tr>
<tr>
<td>11</td>
<td>Facts Services S.A.</td>
</tr>
<tr>
<td>12</td>
<td>Fidupar</td>
</tr>
<tr>
<td>13</td>
<td>Halsey Group S.à.r.l.</td>
</tr>
<tr>
<td>14</td>
<td>Intertrust (Luxembourg) S.A. (3)</td>
</tr>
<tr>
<td>15</td>
<td>Luxembourg International Consulting S.A.</td>
</tr>
<tr>
<td>16</td>
<td>LuxGlobal Trust Services S.A.</td>
</tr>
<tr>
<td>17</td>
<td>Maitland Luxembourg S.A.</td>
</tr>
<tr>
<td>18</td>
<td>MAS Luxembourg S.à r.l.</td>
</tr>
<tr>
<td>19</td>
<td>MDO Services S.A.</td>
</tr>
<tr>
<td>20</td>
<td>Orangefield Trust (Luxembourg) S.A.</td>
</tr>
<tr>
<td>21</td>
<td>SGG S.A.</td>
</tr>
<tr>
<td>22</td>
<td>United International Management S.A.</td>
</tr>
<tr>
<td>23</td>
<td>Vistra (Luxembourg) S.à r.l.</td>
</tr>
</tbody>
</table>

(1) ATC was acquired by Intertrust in the course of 2013
(2) Formerly Bernard & Associés SC, which merged with Paddock SA in January 2013 to become Paddock Corporate Services
The Trust & Corporate Services sector contributed an estimated €635 million to Luxembourg’s tax receipts in 2012.

5 Trust & Corporate Services in the Luxembourg economy

The direct impact of the sector
The direct contribution to the Luxembourg economy by the financial sector, including Trust & Corporate Services, can be summarised as follows:

The Trust & Corporate Services sector in Luxembourg employs around 2,600 people directly. Operators in the sector generate an estimated added value of €400 million, which represents 0.9% of Luxembourg’s GDP. LIMSA members directly employ around 1,600 people in the sector.

The Trust & Corporate Services industry is a very significant contributor to Luxembourg’s tax revenues: including both direct (i.e. from Trust & Corporate Services providers) and indirect (i.e. from the structures and companies they domicile) contributions, we estimate that the sector generated €635 million in tax receipts in 2012.

<table>
<thead>
<tr>
<th></th>
<th>Added value (€ millions)</th>
<th>GDP (€ millions)</th>
<th>Direct jobs</th>
<th>Contribution to direct tax revenues (€ millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>2012</td>
<td>2012</td>
<td>2012</td>
<td></td>
</tr>
<tr>
<td>Banks</td>
<td>7,999</td>
<td>18%</td>
<td>26,537</td>
<td>1,178</td>
</tr>
<tr>
<td>Insurers</td>
<td>2,870</td>
<td>6%</td>
<td>6,153 (a)</td>
<td>666</td>
</tr>
<tr>
<td>Asset management companies</td>
<td>2,547</td>
<td>6%</td>
<td>2,733</td>
<td>486</td>
</tr>
<tr>
<td>PSFs (*) (c)</td>
<td>1,519</td>
<td>3%</td>
<td>14,730</td>
<td>168</td>
</tr>
<tr>
<td>Trust &amp; Corporate Services</td>
<td>−400</td>
<td>−0.9%</td>
<td>−2,600</td>
<td>635 (b)</td>
</tr>
</tbody>
</table>

Source: ABBL, Commissariat aux Assurances, CSSF, Deloitte estimates
(a) Including reinsurance firms
(b) Estimate of the cumulative contribution of Trust & Corporate Services providers and the structures they domicile in Luxembourg
(c) Including LIMSA-member PSFs
Between 2007 and 2010, the financial and insurance sectors generated, on average, 66% of corporate income tax (IRC) receipts. In 2012, this represented around €1 billion of receipts for the Luxembourg state. Within the financial sector, banks contributed the most (36%), closely followed by SOPARFIs (31%) which in total paid around €315 million in corporate income tax in 2012.

Furthermore, shares and bonds issued by UCIs, SIFs and SPFs are subject to a quarterly subscription tax. This tax raised an estimated €630 million for the government in 2012. Given that around 20% of the funds incurring this tax are alternative funds domiciled in Luxembourg, the share of receipts from the local Trust & Corporate Services sector can be estimated at €130 million for 2012.

The services that Trust & Corporate Services players provide to their clients are generally subject to VAT that is very often non-recoverable by the domiciled structures (SOPARFIs, property or private-equity funds, etc.). These VAT receipts related to Trust & Corporate Services in Luxembourg are estimated at €75 million.

Most wealth tax (ISF) receipts for 2007-2010 came from the financial sector, with 80% of the receipts coming directly from SOPARFIs. We estimate that wealth tax revenues attributable to Trust & Corporate Services totalled €55 million for 2012.

Additionally, we estimate that the 2,600 people employed by the Trust & Corporate Services sector pay around €40 million in tax and social security contributions on their salaries and wages.

Finally, the sector is a major contributor to Luxembourg’s Chamber of Commerce, with an estimated €20 million in annual subscriptions paid for structures domiciled in Luxembourg in 2012.
The indirect impact
The expertise acquired by Trust & Corporate Services providers has enhanced the global standing of the Luxembourg fund and wealth management industries by providing an adequate service offering to their sophisticated administrative management requirements.

The two charts below illustrate the international profile of Luxembourg’s financial centre:

Graph 7: Origin of fund sponsors domiciled in Luxembourg

Source: Alfi - Market share of fund sponsors by country of origin, March 2013

Graph 8: Origin of private-banking clients in Luxembourg

Source: CSSF - PBGL – end-2012
Outside the fund and wealth management industries, the efficiency of the Trust & Corporate Services sector and an attractive legal framework within the EU have enabled Luxembourg to attract major players of the global economy.

As a result, several multinational companies have chosen to locate major production and R&D facilities in Luxembourg. Recently, major international e-commerce and IT groups, such as Amazon, PayPal and Skype, have located their European or global headquarters in the Grand Duchy. A specific tax regime for intellectual property holding structures has also helped to attract leading international groups to Luxembourg.

The significant increase in the number of companies established in Luxembourg has benefited the local real estate industry. In addition to having the central administration of the domiciled company here, the company must also have a physical presence in the country with managers on the ground, regular board meetings held in Luxembourg and board members professionally residing in Luxembourg.

In this regard, the Law of 2 September 2011 reforming the right of establishment states that a company seeking to domicile in Luxembourg must prove that it has the physical, administrative and technical infrastructures required to conduct its business in the country.

Graph 10 shows the significant share of office space occupied by business-services companies which also contributes indirectly to the country’s economy.
6 The sector in 2013

6.1 Introduction
This section is based on a survey carried out by Deloitte with LIMSA members and on Deloitte estimates. Although some of its content is based on estimates, it provides a reasonable picture of the sector\(^{(1)}\).

6.2 Market developments in Luxembourg
Trust & Corporate Services in Luxembourg generated annual revenues of around €500 million during 2012. With €294 million, LIMSA members represent around 59% of the sector.

With an average annual growth rate of 11.5%\(^{(2)}\), the Trust & Corporate Services sector is one of the driving forces of Luxembourg’s financial centre.

The revenues generated by the sector come mainly from three types of services: domiciliation services and directorships, accounting and tax services, and corporate and legal support services. The corporate and legal support segment includes company secretarial and coordination services, as well as organising and serving notice of board and shareholder meetings and keeping shareholder registers.

\(^{(1)}\)Historical LIMSA data in sections 6 and 7 has been adjusted to take into account the new members that joined LIMSA in 2012

\(^{(2)}\)Includes acquisitions by LIMSA members during the period 2008-2012
All segments, especially the provision of office space and corporate and legal support services, have recorded positive growth during the period under review.

This overall positive trend shows that despite increasingly complex client needs and price pressure on basic domiciliation services, industry professionals have been able to adapt and expand their range of services to meet their clients’ expectations.
6.3 Clients

In 2012, LIMSA members provided services to around 19,000 clients. This number has risen by 15.2% over the last five years, an average annual growth rate of 3.6%. Although the increase is due partly to a policy of external growth by some LIMSA members since 2008, it is also testament to the resilience of the Luxembourg Trust & Corporate Services sector in a difficult macroeconomic climate.

Clients in the Trust & Corporate Services sector can be split into 3 categories:

1. Corporate clients
2. Institutional clients (private equity and real estate)
3. Private clients (high-net-worth individuals (HNWI) and family offices)

With an average growth rate of 14.3%, the funds segment recorded the highest growth during the period under review.
Between 2008 and 2012, the funds segment enjoyed sharp annual growth of 14.3% on average, ahead of the corporate clients segment (+5.8%).

With an average growth rate of -1.2%, the private clients segment was the only one to register negative growth during the period under review. However, this figure should be viewed with caution as classification of clients may vary. Certain structures owned by entrepreneurs or HNWIs will be classed under “corporate” by some operators and under “Private clients” by others thereby impacting the overall results.

In 2012, around 66% of all structures served by LIMSA members came from the EU, 20% from North America and 14% from the rest of the world.

Around half of the surveyed Trust & Corporate Services providers’ clients came from the financial and insurance sector (44%). The real estate sector accounted for 23% of clients and the energy sector for 7%.
6.4 Employees
It is difficult to estimate the number of people employed in the Trust & Corporate Services sector given the diversity of sector operators (trusts, law firms, insurers and auditors). By collating available market data, we can nevertheless estimate that the sector employs around 2,600 people. This makes it a cornerstone of the Luxembourg financial market.

The 23 LIMSA members and their 1,615 employees account for 62% of the Trust & Corporate Services jobs in Luxembourg. With the growing complexity of the services offered to their clients, Trust & Corporate Services providers have increasingly faced the need to recruit a qualified and well-trained workforce. Currently, more than 85% of LIMSA-member employees have a bachelor degree or higher, with 48% having a master’s degree and 5% having a doctorate. By way of comparison, only 32% of employees in Luxembourg have a bachelor’s degree or higher (Source: Eurostat).

Graph 16: Number of employees in the Luxembourg financial sector, as at end of 2012

<table>
<thead>
<tr>
<th>Sector</th>
<th>Employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Banks</td>
<td>26,537</td>
</tr>
<tr>
<td>PSFs</td>
<td>13,115*</td>
</tr>
<tr>
<td>Insurers</td>
<td>6,153**</td>
</tr>
<tr>
<td>Asset management companies</td>
<td>2,733</td>
</tr>
<tr>
<td>Domiciliation</td>
<td>~2,600</td>
</tr>
</tbody>
</table>

(of which 1,615 at LIMSA members)

*PSF employees excluding LIMSA members
**Including reinsurance-related firms

Source: Commissariat aux Assurances (www.commassu.lu); Central Bank of Luxembourg, Employment in banks and asset management companies (www.bcl.lu); Statec, Jobs in banking, financial services and asset management (www.statec.lu)
Unsurprisingly, accounting, finance and economics graduates are prevalent in the Trust & Corporate Services sector, representing around two thirds of the qualifications mentioned in the survey.

Trust & Corporate Services providers have an international, multicultural and multilingual workforce. The majority of employees are French (39%) or Belgian (32%), while many other European nationalities are also represented. With 76% of its employees coming from neighbouring countries, the Trust & Corporate Services sector is an important provider of jobs in Luxembourg’s Greater Region.

Finally, English and French are the most commonly spoken languages in the sector (82% and 76% of employees). On average, 11% speak German and 6% speak Luxembourgish.

The multiculturalism and significant expertise of the workforce are key factors in responding to the specific needs of an international clientele, boosting Luxembourg’s reputation as an international Trust & Corporate Services centre.
The Trust & Corporate Services Sector in Luxembourg

7 Economic barometer and outlook for the sector

7.1 The barometer

LIMSA membership increased again in 2012. We asked members for their views on the outlook for the sector.

As we have shown in section 6, most respondents thought the Trust & Corporate Services sector in Luxembourg would continue to grow. This confirms once again the dynamism and great resiliency of this sector in a lacklustre EU economic climate, but also confirms the capacity of the country and the players in it to adapt to market developments and to satisfy their clients’ changing needs.

The prognosis for Luxembourg’s Trust & Corporate Services sector remains very positive, with over 73% of respondents positive or neutral about the sector’s growth prospects over the next 12 months.

Despite growing international pressure on the sector and on some of its clients, primarily from the OECD and the EU, ongoing changes in the European and Luxembourg environment are perceived by a large majority of respondents as a development opportunity.

The increasing regulatory complexity of Trust & Corporate Services activities is, however, cited by some players as a restrictive factor certainly forcing consolidation in the sector.

The most cited concerns for the sector include the risk of over-regulation of administrative services in Europe in response to international pressure, automatic information sharing (the Savings Directive, the Foreign Account Tax Compliance Act) and European fiscal union.
The players surveyed had a very positive perception of Luxembourg’s competitiveness, 73% saying its competitiveness has improved or remained steady over the past five years.

A large majority of them said that Luxembourg’s position on issues such as the AIFMD, special partnerships (SCSp), family office, private trusts and custodianship of non-financial assets, strengthens Luxembourg’s international competitiveness and credibility and offers local players new growth opportunities.

Survey responses emphasise the essential role of Luxembourg lawmakers not only to maintain that competitiveness in a sometimes difficult international context, but also to preserve Luxembourg’s present attractiveness.

In this context, 80% of respondents said they had confidence in their company’s outlook over the next 12 months, and more than 90% of them anticipated maintaining or increasing their workforce.

The number of respondents envisaging partially relocating their activities outside Luxembourg remains insignificant.
7.2 Putting the barometer into perspective: opportunities and challenges for the future
During our survey, these subjects were most commonly cited by industry players as opportunities and challenges for the future.

\begin{center}
\textbf{Alan Dundon}  
Member of the Alter Domus management committee and a director of LIMSA, explains the ins and outs of the AIFM Directive.
\end{center}

AIFMD

Many corporate service providers see the AIFM Directive, recently transposed into Luxembourg law, as a great potential opportunity for Luxembourg.

\textit{Why is the transposition of the AIFM Directive into national law, important for Luxembourg?}
The AIFM Directive is the first major piece of legislation regulating alternative funds and foresees a stricter supervision and regulation of alternative funds and their managers. In return, an EU passport will open up new opportunities for fund managers, allowing them to freely offer their management services and distribute their funds in all EU member states.

Luxembourg has a strong base of both regulated and unregulated alternative vehicles. AIFMD will result in many unregulated vehicles becoming regulated, and Luxembourg, as a leading global fund administration centre and with a depth of experience in administrating alternative products, is in a position to immediately comply with the vast majority of the Directive’s provisions and requirements. This represents a major advantage to Luxembourg versus other European centres which will take significant time to develop the new competencies required.

Additionally, the new passport regime will attract new business and strengthen the position of Luxembourg as the investment fund centre of choice for alternative investment managers.

\begin{center}
One of the main innovative aspects of the law is the creation in Luxembourg Law of the status “special partnership without legal personality” – What does this new status bring? 
\end{center}

In parallel with AIFMD, Luxembourg used the opportunity to introduce an efficiency package, which included the creation of new Special Limited Partnership Companies, giving promoters a single jurisdiction for domiciling their alternative funds and holding structures.

Partnerships are not new for Luxembourg as it has had partnership legal structures (SCS) in place for close to 100 years; the original Law relating to commercial companies came into force in 1915. These structures were however not commonly used for a number of reasons, including the need to publish the names of limited partners and the risk of exposure to municipal business tax at the level of the general partner.

The industry has since worked on these issues and examined gaps versus structures commonly used in other jurisdictions. The new law now offers improved best of breed partnership structures both in transparent and non-transparent forms, being the SCS and SCSp, respectively.

The new SCS and SCSp can be compared with UK and US based Limited Partnerships which are extensively used in alternative investment structuring, mainly due to the flexibility and tax transparency they provide.

We expect that Luxembourg partnerships will generate significant interest amongst the international Private Equity and Real Estate (“PERE”) investment management professionals across the globe.
The Trust & Corporate Services Sector in Luxembourg

The new law defines a tax “carried interest” that is intended to attract financial professionals to the Luxembourg regime. What makes this Luxembourg scheme attractive?

Luxembourg has long been recognised as a world class centre in corporate and fund administration services. In addition, recent efforts by the Luxembourg government have seen certain success in creating a centre of investment management.

As an example, Circular LIR no. 95/2 which came into effect on 1 January 2011 for qualifying international employees implemented a special tax regime providing for tax exemptions of various allowances including moving expenses, accommodation costs, school fees, cost of living expenses and others.

The carried interest regime is another such effort specifically aimed at the alternative investment management sector and provides for tax relief on carried interest over a 10 year period. The tax provisions qualify the income of carried interest as other income and limit the tax regime to individuals that became resident in Luxembourg during the year or the five subsequent years as from the enactment of the Bill.

How will this Directive impact the Trust & Corporate Services providers in Luxembourg?

For those administering smaller structures and private clients, the impact is likely to be minimal, as such structures will likely not fall under the AIFMD regime.

Other players, however, will need to provide for fund administration services at a minimum, on top of the existing corporate services that they currently offer. This will almost certainly involve some significant expense in purchasing new systems and hiring experienced personnel.

Certain players have already indicated their intention to take advantage of the possibility to become a non-financial depositary so that they can offer a more vertically integrated service to their PERE clients. A close cooperation between the client and the fund administrator will be a key success factor as fund administrators for both Private Equity and Real Estate funds act as the main coordination hub for all relevant aspects, including accounting, legal documentation, payment processing and investor servicing. It follows then that service providers that are able to provide both fund administration and depositary services are ideally placed to deliver added value to the Fund Managers.

As a result, and in conclusion, the additional costs and regulatory burden of the Directive are likely to see a continued consolidation of corporate service providers in Luxembourg.
The bill to allow the establishment of private foundations under Luxembourg law has recently been tabled in the Chamber of Deputies. This new vehicle aimed at facilitating wealth and estate planning meets the growing need of high-net-worth individuals to keep their estate intact, to protect their private arrangements, and to ensure continuity of business management.

What is this new Private Foundations bill about?
Our Association formulated wording that after two years of discussions has resulted in a bill to allow the establishment of private foundations under Luxembourg law, recently tabled in the Chamber of Deputies. This new vehicle aimed at facilitating wealth and estate planning to meet the growing need of high-net-worth individuals to keep their estate intact, to protect their private arrangements, and to ensure continuity of business management, carries high stakes. The bill’s objective is to make Luxembourg an expertise centre for the management and administration of family assets.

Briefly, what is the legal regime for Private Foundations?
Private foundation must to a large extent comply with the law governing commercial companies, specifically:
• Its establishment must be notarised.
• The minimum initial donation is €50,000.
• Its registered office must be in Luxembourg.
Foundations that do not have their own premises must be domiciled with a domiciliation professional.
• It must be administered by one or more administrators. The same person can be founder, administrator and beneficiary. If a foundation has more than five beneficiaries or its assets exceed €20,000,000 it must have a supervisory board.
• It must prepare annual financial statements, but it does not need to file them with the Trade and Companies Register.

In order to ensure confidentiality, beneficiaries’ names must not appear in the Articles of Association, but may be listed in a separate document. The foundation may issue registered certificates representing (monetary) rights to the assets held and may perform a function similar to an “administratiekantoor” as known in Dutch and Belgian law.

What tax regime governs foundations?
As regards direct taxes: A foundation is fully subject to corporation income tax. However, interests in receivables, dividends, as well as capital gains on disposals (particularly investments) are exempt. Other proceeds to the foundation, notably rental income and capital gains on the sale of real estate, are taxable under common law as commercial profit.

Allocations of any kind, such as money payments or benefits in kind, made by the foundation to its beneficiaries and to its founder are not subject to withholding tax. Payments to non-resident beneficiaries are not taxable in Luxembourg. Foundations are also not subject to wealth tax.
As regards indirect taxes:
Proportional registration fees do not apply when setting up a private foundation, or to subsequent donations.

On the death of a founder not resident in Luxembourg, the inheritance of real estate located in Luxembourg is subject to inheritance tax at the rate of 0%, 12% or 40% depending on the family relationships between the founder and the beneficiaries.

In the case of an in-vivo gift by the founder, tax on the in-vivo gift depends on the family relationships between the founder and the beneficiaries, if the founder is a Luxembourg resident.

On the death of a founder resident in Luxembourg, the inheritance of real estate located in Luxembourg is subject to inheritance tax at the rate of 0%, 12% or 40% depending on the family relationships between the founder and the beneficiaries.

How will this new type of structure impact Trust & Corporate Services providers in Luxembourg?
LIMSA members have many years’ experience of managing and administrating family assets, and private foundations will be an additional vehicle alongside Soparfi, SIF and SPF to allow comprehensive family planning from Luxembourg.

The creation of a specific legal status for family offices
Family offices offer a more “transgenerational” vision than traditional wealth management does. Trust & Corporate Services providers see them as another development opportunity for the Luxembourg financial centre. Luxembourg has become a pioneer in this field by adopting a law regulating this activity in December 2012. This new legislative framework took effect in January 2013.

This new regulatory framework reinforces the credibility of this activity in Luxembourg, by creating a new category specifically for financial sector professionals (PSF) supervised by the CSSF.

The adopted regulations put Luxembourg at the cutting edge of the industry and enhance the international flavour of the financial centre.
As they strive to attract foreign investments to Luxembourg, Trust & Corporate Services providers tend to target emerging countries.

This is where Luxembourg’s traditional advantages come into play: a multitude of double taxation treaties, a very advanced financial system at the heart of the EU, a multicultural and multilingual financial centre, etc.

Luxembourg players are gradually getting closer to these emerging countries thanks to the consolidation under way with international players in the Trust & Corporate Services sector.

In March 2010, the United States adopted a new tax regulation as part of its “Hire Act” (to boost US jobs) thus creating a new chapter in their income tax code entitled FATCA (“Foreign Account Tax Compliance Act”).

This new regulation was initially scheduled to come into effect in January 2013 but the US Internal Revenue Service (IRS) eventually decided to delay it until 2014 due to its complexity and implementation cost.

This US legislation aims to ensure that foreign financial institutions (banks, investment funds, certain insurance companies, etc.) automatically disclose their information on the assets of US investors to the IRS, the country’s tax-collection authority.

With FATCA, the United States requires every foreign financial institution (FFI) to withhold 30% of any payment made to a US investor, unless that institution has signed a cooperation treaty with the IRS, in which case the institution’s sole obligation is to file a return to the IRS and it does not need to withhold 30% except for payments to financial intermediaries who have not signed such a treaty with the IRS or to US investors whose “US or non-US person” status has not yet been determined.

In parallel, a wider intergovernmental cooperation framework was concluded in February 2012 between the United States and five major European countries.
(France, Germany, the United Kingdom, Spain and Italy) with a view to improving the settlement of international financial obligations and to implement FATCA. This agreement aims to ease the obligations on European financial institutions resulting from the new US Act, and to set up as a principle the exchange of information between tax authorities. Since then, some 75 countries have also announced their intention to sign an intergovernmental agreement (IGA) with the United States.

As at the end of October, eight countries had signed an intergovernmental agreement with the United States (the United Kingdom, Germany, Spain, Switzerland, Ireland, Norway, Mexico and Denmark). In the case of France, the United States had proposed a signing date of early October but discontinued negotiations due to the US Treasury needing to manage the US government “shutdown” crisis. Negotiations are currently under way with many other countries.

Two types of intergovernmental agreements (IGAs) coexist:

• **“Model I”**: This type of IGA provides for automatic exchange of information from partner governments to the IRS but the financial intermediaries (FFIs) of the partner country can communicate information provided by the IGA only to local tax authorities with no direct connection with the IRS.

• **“Model II”**: This type of IGA requires FFIs of a partner country to communicate information required by the IGA directly to the IRS.

An FFI’s reporting requirements will vary depending on the type of agreement signed by the country in which it is based.

On 21 May 2013, Luxembourg signalled its intention to sign a “model I” IGA-type agreement relating to the automatic exchange of information by FFIs with Luxembourg tax authorities, provided Luxembourg’s financial market competitors did the same.

This agreement should be signed by the end of 2013. Once signed, it will help financial intermediaries in Luxembourg identify their direct taxation reporting requirements in Luxembourg. Based on the latest implementation timeline for FATCA, all financial intermediaries should be registered on the IRS’s FATCA portal by 25 April 2014, and the first list of “approved” financial intermediaries should be communicated by the IRS in June 2014.
On 28 May 2013, Minister Luc Frieden affirmed at the OECD Forum that Luxembourg was committed to the automatic exchange of information and to quasi-total fiscal transparency. Luxembourg will therefore be supporting international anti-tax evasion measures.

What impact will fiscal transparency have on Luxembourg’s Trust & Corporate Services sector?

We should note first of all that this announcement is fully in line with the European Directive of 3 June 2003 on the taxation of savings income, which provides for a transitional period for the automatic exchange of information and sets out a roadmap for fiscal transparency. Trust & Corporate Services providers now understand that they need to consider not only Luxembourg law but also the other European countries’ perception of Luxembourg structures. The sector is therefore now extremely well prepared for this new environment which is more constricting than before.

For many years, and this is one of Luxembourg’s strengths, the government has made major efforts to help reorient the sector and to make new vehicles available to it. And it will certainly continue doing so. The inauguration of the SICAR law and securitisation companies were only the start and were quickly followed by the SIF legislation. The very recent law establishing special partnerships, as well as the tabling of the bill on private trusts, are just the most recent examples.

The sector’s challenge is to adapt to increasing specialisation, to perfectly master these vehicles and mechanisms, and to combine them in an optimal way to meet clients’ requirements. To safeguard the future of Trust & Corporate Services activities, the following issues must be addressed by the specialists in the sector: the particular wishes of high-net-worth families, their complicated asset protection needs, philanthropy, new investment models, increasing complex financing schemes, control of financial flows sought by global groups, while also focusing on tax optimisation that is internationally perceived as lawful. The sector must adapt to the issues raised recently, as a result of the economic crisis and connected with Base Erosion and Profit Shifting (BEPS).

In concrete terms, the Trust & Corporate Services sector must offer a set of increasingly sophisticated and comprehensive services, minutely adapted to clients’ individual needs. Trust & Corporate Services providers in Luxembourg are increasingly an integral part of international groups and support their clients in a proactive and involved way. In addition to the sector’s traditional services, it must also help to find offices or make them available, including appropriate personnel and qualified directors for the entity’s field of activity. All this to ensure Luxembourg has a presence in the highest levels of activity and conforms to international fiscal expectations. It is important to note that the Luxembourg government has come out in favour of taxation that encourages competition between countries while remaining fair. The available corporate vehicles permit this balance to be respected.

In this new environment, it is therefore up to the various players in the sector to manage these considerations, which are sometimes sensitive, to guide their clients to the right, sustainable, solutions to their needs.
8 Appendices

8.1 Overview of the tax framework in Luxembourg

The tax system in Luxembourg, which complies with European and international standards, is considered to be one of the most attractive in the EU. Companies domiciled in Luxembourg can enjoy benefits such as a large range of investment vehicles and a multitude of double taxation treaties.

All Luxembourg corporation taxes are shown in the table below:

<table>
<thead>
<tr>
<th>Corporation taxes</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Income tax</strong></td>
<td>29.22% on global income (22.47% IRC + 6.75% ICC)</td>
</tr>
<tr>
<td><strong>Wealth tax</strong></td>
<td>0.5% (on net asset value)</td>
</tr>
</tbody>
</table>

**Withholding tax**

- **on interest** 0%
- **on dividends** 15% (exemption, subject to conditions, if dividends are paid to resident companies or to companies resident in the European Union, or to non-resident companies that are subject to a corresponding IRC and resident in a jurisdiction with which Luxembourg has concluded a tax treaty).
- **on royalties** 0%

VAT

The standard VAT rate in Luxembourg is 15%, the lowest in the EU. The average in 2012 is 21% among the 28 EU countries and 20% in the eurozone. Added to this are intermediary rates of 12%, a reduced rate of 6% and a super reduced rate of 3% (including food, water, copyright, broadcasting and television, and books).

Starting in 2015, the VAT applied on telecoms, broadcasting and electronic services will be the VAT in the consumer’s country of residence rather than the VAT in the country of the service provider.

**Minimum flat rate tax**

Under article 174 (6) of the income tax act, a minimum flat payment is payable annually by corporations with their registered office or administrative headquarters in Luxembourg that are liable to corporation income tax, in an amount less than the minimum tax threshold or if running a loss.

The amount paid can be set against tax owed in future years with no time limitation.

The minimum flat tax rate is set as follows:

- A minimum tax of €3,210 is payable by corporations, whether or not they are subject to certification by an oversight agency, when the financial assets, tradable securities, and receivables on related businesses and equity associates, bank assets and similar exceed 90% of their total net assets (effective fiscal year 2013 and taking into account the contribution to the jobs fund), or
- A minimum tax between €535 and €21,400 (including the contribution to the jobs fund) for other corporations, depending on their total net assets.
**Intellectual property**

The law of 21 December 2007 and the law of 19 December 2008 (article 50a of the law on income tax), which aimed to make Luxembourg a more attractive location for R&D and intellectual property, allow for a tax exemption of up to 80%, under certain conditions, on the net income of Luxembourg-based individuals or companies from certain intellectual property rights (patents, trademarks, domain names, designs and prototypes, software copyright, etc.). This income would in such cases be taxed at 5.84% (29.22%*20%)

Capital gains are also exempt up to 80%. The intellectual property rights listed above are exempt from wealth tax.

**Tax regime for impatriates in Luxembourg**

To enhance the attractiveness of Luxembourg, in 2011 the direct taxation authority set up a favourable tax regime for highly qualified employees coming to Luxembourg, the conditions for which were relaxed in May 2013 (via administrative circular LIR no. 95/2 of 21 May 2013). The regime applies to impatriates who arrived in Luxembourg on or after 1 January 2013. The expression “impatriate” is taken to mean employees of an international group who are seconded to Luxembourg, as well as employees directly recruited abroad by a Luxembourg-based company.

Provided the tax regime conditions are satisfied, a certain number of expenses that are typically borne by the employer as part of an impatriation (e.g., relocation costs for the employee and his/her family, moving-in costs in Luxembourg, children’s school fees, rent, travel to the country of origin, cost of living differential, fiscal equalisation, etc.) and which are therefore in principle taxable as benefits in kind for an employee entitled to total or partial exemption from tax, as the case may be. This exemption benefits the employee or the employer (assuming the tax is borne by the employer as part of a tax equalisation policy). Furthermore, these expenses constitute operating expenses for the employer. The employee and his employer can benefit from this regime until the end of the 5th calendar year following the year that the employee started working in Luxembourg.
As at 18 July 2013, Luxembourg was party to 64 double taxation treaties:

- Armenia
- Austria
- Azerbaijan
- Bahrain
- Barbados
- Belgium
- Brazil
- Bulgaria
- Canada
- China
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Georgia
- Germany
- Greece
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Ireland
- Israel
- Italy
- Japan
- Latvia
- Liechtenstein
- Lithuania
- Malaysia
- Malta
- Mauritius
- Mexico
- Moldova
- Monaco
- Mongolia
- Morocco
- Netherlands
- Norway
- Panama
- Poland
- Portugal
- Qatar
- Romania
- Russia
- San Marino
- Singapore
- Slovakia
- Slovenia
- South Africa
- South Korea
- Spain
- Sweden
- Switzerland
- Thailand
- Trinidad and Tobago
- Tunisia
- Turkey
- United Arab Emirates
- United Kingdom
- United States
- Uzbekistan
- Vietnam

2 http://www.impotsdirects.public.lu/conventions/conv_vig/index.html. Based on the latest diplomatic and legislative developments, the double taxation treaties with Kazakhstan, Macedonia and Tajikistan should come into effect on 1 January 2014. It should be noted that unless a new agreement is signed between the Luxembourg authorities and those of Ulan Bator, the double taxation treaty with Mongolia will cease to apply in 2014.
8.2 The legal framework in Luxembourg

Besides UCIs, the four main investment vehicles used in Luxembourg are SOPARFIs, SPFs, SIFs and SICARs (the latter two are supervised by the CSSF).

**Holding companies (SOPARFIs)**

The main aim of a SOPARFI is to acquire holdings in Luxembourg-based or foreign companies and then manage these investments. SOPARFIs can carry out both financing and commercial activities. They generally take the form of a public limited company (S.A.), a limited-liability company (S.à.r.l.) or a partnership limited by shares (S.C.A.).

A SOPARFI is governed by the law on commercial companies and is therefore subject to Luxembourg taxes, i.e. corporate income tax (IRC), municipal business tax (ICC) and wealth tax (IF).

According to certain holding conditions mentioned in article 166 of the law on income tax, SOPARFIs can benefit from the EU’s Parent-Subsidiary Directive regime, thereby being exempted from income tax and municipal business tax. Similarly, any capital gains from the sale of these investments can also be exempted under domestic law (under certain conditions). Dividends paid to shareholders can also be exempted from withholding tax (also under certain conditions).

**Private wealth management companies (SPFs)**

The private wealth management company (SPF), a structure created by the law of 11 May 2007, was designed as an investment vehicle for natural persons only. SPFs must take the form of a joint-stock company with the exclusive purpose of buying, holding, managing and realising financial assets; they are not permitted to carry out any commercial activities.

SPF shareholders must be natural persons managing their own private assets, asset management entities acting exclusively in the interests of the private assets of natural persons, or intermediaries acting on behalf of private investors.

SPFs do not benefit from the double taxation prevention treaties entered into by Luxembourg. Under certain conditions, they are exempt from most direct taxes (IRC, ICC and IF). However, they are subject to a subscription tax of 0.25% per year, from a minimum of €100 up to a maximum of €125,000.
The law of 12 July 2013 relating to managers of alternative investment funds¹ modernised simple partnerships (SCSs) and introduced a new company into Luxembourg’s legal landscape, the special partnership (SCSp).

The modernisation of the legal regime applicable to SCSs permits:
- The identity of partners to be kept confidential;
- The appointment of a manager who, although not a partner, will be solely responsible for the management of the company and will be able to delegate his powers to a representative solely responsible for the execution of his mandate;
- The partners to perform certain internal management activities such as consulting, supervision or granting of loans to the SCS and its subsidiaries (this list is not exhaustive);
- To derogate from the principle of “one share one vote”;
- To decide the allocation of profits and losses (for example, exclude a partner from sharing in the profits and losses of the partnership).

Pursuant to the law of 12 July 2013, the legal regime applicable to SCSp is close to that of the SCS but differs in its absence of legal personality. According to the applicable legislation (not amended by the above-cited law), SCS/SCSp are considered to be transparent entities for corporate income tax and wealth tax purposes.

Municipal business tax is not payable by SCS/SCSp in the following cases:
- The GP taking the form of a limited Luxembourg company holds less than 5% of the interest in the SCS/SCSp;
- The SCS/SCSp does not perform any commercial activity.

On a case by case basis and to the extent that the SCSp qualifies as an Alternative Investment Fund (“AIF”), the management services rendered to an SCS/SCSp are covered (subject to certain conditions) by the Luxembourg VAT exemption on management services rendered to investment funds.

¹ This law also introduced a favourable regime for the taxation of “carried interest”. For a period of 10 years, the tax on “carried interest” will be reduced, under certain conditions, by 75% to about 10.3%.
Investment companies in risk capital (SICARs)

The investment company in risk capital (SICAR), a structure created by the revised law of 15 June 2004, is a flexible but regulated structure (i.e. protection and supervision by the CSSF) for investments involving one or more certain risks. SICARs are reserved to well-informed investors. They were designed specifically for investment in venture capital and private equity. SICARs can take the form of an S.A., a S.à.r.l., an S.C.A. or a limited partnership (transparent tax regime).

Unlike conventional Luxembourg-law investment funds, SICARs do not have to adhere to the principle of risk diversification when selecting investments. They can therefore restrict their investments to one or two companies in a well-defined sector, but with certain limits. For example, any real estate investment must be made indirectly.

When taking the form of a joint-stock company, SICARs are subject to corporate income tax (IRC) and municipal business tax (ICC), but are exempted from wealth tax (IF). When taking the form of a limited partnership (SCS), they are not considered as commercial companies and are therefore exempt from ICC. In this case, they are considered as tax transparent and their investors are subject to taxation according to their own local rules as applicable. Dividend distribution to investors is in principle totally exempt from withholding tax in Luxembourg. Capital gains made by foreign investors on the sale of their investment are not taxable.*

Management services rendered to a SICAR are covered (under certain conditions) by the Luxembourg VAT exemption for management services rendered to investment funds.

* See the website http://www.impotsdirects.public.lu/az/s/sicar/index.html for more information on the special tax regime applicable to SICARs.
Specialised investment funds (SIFs), a structure created by the law of 13 February 2007 and amended by the law of 26 March 2012, are not aimed at the general public. They are reserved for well-informed investors, whether institutional, professional or private (the latter must invest a minimum of €125,000 or have their expertise certified by a financial organisation).

SIFs can invest in all asset classes. They are suited to securities, real estate funds, hedge funds and venture capital funds. They must however adhere to the principle of risk diversification.

From a legal point of view, SIFs may take the form of a mutual fund (FCP) managed by an asset management company, an open-ended investment company (SICAV), a closed-ended investment company (SICAF) a partnership (SCS), or a special partnership without legal personality (SCSp).

Before their incorporation, SIFs must be registered in Luxembourg with the CSSF, and their custodian must be a Luxembourg-based bank.

From a fiscal point of view, SIFs (SICAV, SICAF, SCS and SCSp) are, in principle, exempt from IRC, ICC and IF on dividends and capital gains. They are, however, subject to a subscription tax of 0.01%. Dividends paid by SIFs are exempt from withholding tax.

Management services rendered to an SIF are covered (under certain conditions) by the Luxembourg VAT exemption for management services rendered to investment funds.
The association aims to:
• Promote the interests of leading Trust & Corporate Services providers established in the Grand Duchy of Luxembourg, in the widest sense of the term
• Represent the professional interests of its member firms

It attempts to achieve these goals by:
• Organising seminars and other meetings
• Developing initiatives on a central level, which would be too costly or difficult to achieve for individual members
• Promoting the commercial interests of Trust & Corporate Services providers
• Defending the interests of its member firms with the authorities, in particular by serving on various committees and consultative bodies, both nationally and internationally
• Maintaining contacts with government bodies, professional organisations and Chambers of Commerce