

SIF and Well-Informed Investors



Context

In accordance with Article 2 of the amended Specialised investment fund ("SIF") law, well-informed investors can be an institutional investor, a professional investor as well as any other investor that:

- a) has declared in writing his/her adhesion to the status of well-informed investor, and
- b) (i) invests a minimum of EUR 125,000 in the specialised investment fund, or
(ii) has obtained a statement from a credit institution or from a management company as defined in the Directive 2001/107/EC testifying to his expertise, his experience and his knowledge to appraise in an appropriate manner an investment in the specialised investment fund.

Key Issues

The new Article 2 (3) of the amended SIF Law specifies that the specialised investment fund shall have the means necessary to ensure compliance with the requirements related to the definition of well-informed investors. This new requirement is applicable since April 1, 2012.

What does this imply for the SIF?

- At initial subscription date, management will check the compliance of the investor with the definition of well-informed investors;
- And, subsequently, will monitor that such investor remains compliant over time.

What is the challenge?

Our market intelligence in the SIF industry has revealed that compliance with the requirements of Article 2 and Article 2 (3) of the amended SIF Law may be challenged. Particularly when financial intermediaries (such as nominees, distributors, etc.) invest in the SIF on behalf of underlying investors.

Do these underlying investors qualify as well-informed investors as defined in the amended SIF law? How does management monitor it? Is the monitoring process efficient and adequate?

Our Services

How can Deloitte Luxembourg help?

- Assessment of the compliance of existing monitoring procedures with the requirement of Article 2 (3) of the SIF law: GAP analysis;
- Assistance in the design of monitoring procedures reflecting the requirements of Article 2 (3);
- Assistance in the performance of checks on the investors compliance with the requirements of Article 2 (3);
- Annual health check of the compliance of the monitoring procedures with market practice.

Should you need the assistance of our experts or wish to receive more information on our assistance, please do not hesitate to contact us.

Deloitte has a significant market share in the audit of SIF and has built very strong expertise in Hedge Funds, Private Equity, Real Estate and Infrastructure Funds as well as in Plain Vanilla Funds.

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