

*N°12*

*January 2002*



# CSSF NEWSLETTER

COMMISSION de SURVEILLANCE  
du SECTEUR FINANCIER



## UCIs – Decrease in the rate of the annual subscription tax (taxe d'abonnement)

The law of 21 December 2001 reforming certain clauses on the subject of direct and indirect taxes has modified article 108 of the law of 30 March 1988 relating to UCIs as follows:

1. The rate of the annual subscription tax (taxe d'abonnement) payable by the undertakings foreseen by the present law is **0.05%**.
2. This rate is 0.01 % for
  - a) the undertakings whose exclusive object is the collective investment in money market instruments and in deposits with credit institutions;
  - b) the undertakings whose exclusive object is the collective investment in deposits with credit institutions;
  - c) the undertakings which are ruled by the law of 19 July 1991 concerning UCIs whose securities are not offered to the public;
  - d) the individual compartments of multi-compartment UCIs foreseen by the present law and for the individual classes of securities created within an UCI or within a compartment of a multi-compartment UCI, if the securities of these compartments or classes are reserved for one or several institutional investors.

# Statistics

## *Pension funds*

Two new pension funds constituted under the legal form of an assep have been registered on the official list of pension funds. This applies to the following pension funds:

- DEXIA PENSION FUND, 69, route d'Esch, L-2953 Luxembourg
- PRIME PENSION, BGL ASSEP B, 50, avenue J.F. Kennedy, L-2951 Luxembourg

As at 31 December 2001, the number of pension funds subject to the law of 8 June 1999 as amended totals five of which three are asseps and two are sepcavs.

In accordance with article 45 (12) of the aforementioned law, the CSSF will henceforth publish in the Mémorial, at the end of each year at least, an official list of the professionals authorised to exercise the activity of liability manager for the pension funds subject to this law.

The official lists of the pension funds and authorised liability managers are available on the CSSF website (<http://www.cssf.lu/fr/entites/index.html>).

## *Banks*

### **Banks' balance sheet total reports a slight increase for the month of November 2001**

The balance sheet total for the banks established in Luxembourg reached EUR 704.53 billion as at 30 November 2001 compared to EUR 697.38 billion as at 31 October 2001, which is an increase of 1%.

As at 31 December 2001, the number of credit institutions registered on the official list of banks totalled 189, which are 5 banks less compared to the previous month (see page 10 "Official lists").

Due to two consecutive withdrawals resulting from the mergers of Banca Intesa International S.A. with Société Européenne de Banque S.A. and DekaBank Luxembourg S.A. with Deutsche Girozentrale International S.A., the number of credit institutions reached 187 entities as at 1 January 2002.

## *Professionals of the financial sector (PFS)*

### **Balance sheet total reports a slight decrease**

According to the data provided at 30 November 2001, the balance sheet total of all the professionals of the financial sector (146 businesses active in total) adds up to EUR 2.065 billion compared to EUR 2.095 billion the previous month, which is a slight decrease of 1.4 %.

The net profit of the PFS reached EUR 278 million.

### **Distribution of the professionals of the financial sector according to their status**

(as at 31 December 2001)

<b>Category</b>		<b>Number</b>
Commission agents	COM	14
Financial advisors	COF	10
Brokers	COU	6
Professional custodians of securities or other financial instruments	DEP	4
Distributors of units of investment funds	DIST	43
Domiciliation agents of companies	DOM	32
Private portfolio managers	GF	51
Underwriters	PF	4
Professionals acting for their own account	PIPC	17
Market makers	TM	2
Entity authorised to exercise all the activities as PFS permitted by article 28 of the law of 15 December 2000 on postal services and financial postal services	EPT	1
<b>TOTAL *</b>		<b>145</b>

\* the same establishment can appear in several categories at the same time

## Undertakings for collective investment

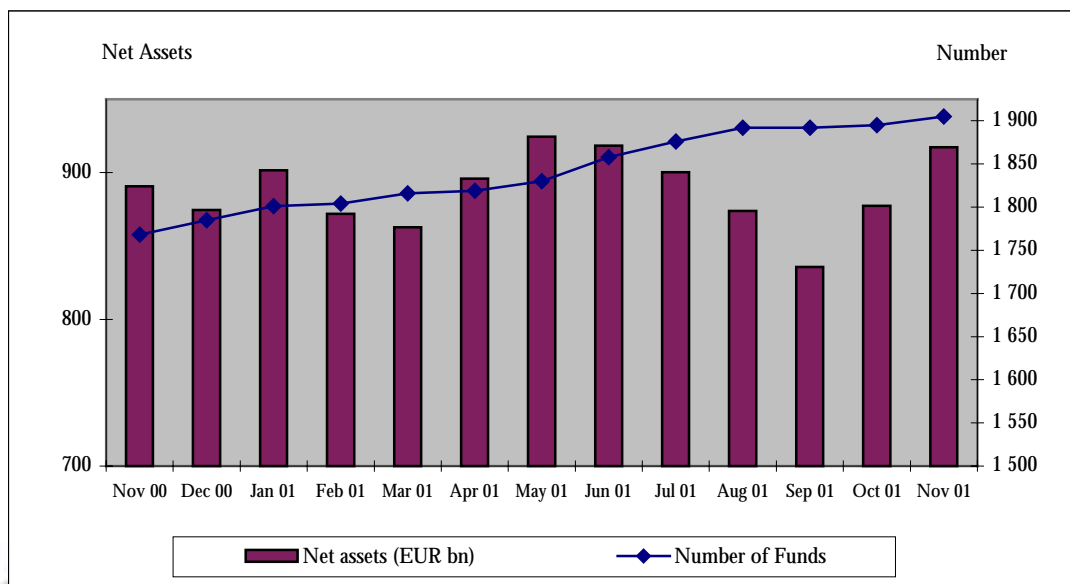
### Increase in the total net assets as at 30 November 2001

The total net assets for undertakings for collective investment amounted to EUR 917.271 billion as at 30 November 2001 compared to EUR 877.245 billion as at 31 October 2001. As a result the Luxembourg undertakings for collective investment sector has increased by 4.56% compared to the month of October 2001.

For the month of November 2001, the sector increased by 4.88% compared to 31 December 2000 when the total net assets amounted to EUR 874.586 billion. Over the last twelve months, the volume of net assets has increased by 2.99%.

During the month of November 2001, the net capital investment, which is defined as the total of the net issues reduced by the net adjusted repurchases taking into account the UCIs that entered into liquidation, amounted to EUR 15.243 billion.

The number of undertakings for collective investment taken into consideration totals 1,905 compared to 1,895 for the previous month. 1,131 UCIs have adopted the multiple compartment structure, which represents a total of 6,700 compartments. When adding 774 UCIs with a traditional structure to the previous figure, a total of 7,474 compartments are active in the financial centre.





## Recent regulatory developments

### **CSSF Circulars 01/44 and 02/51 concerning the identification and the declaration of business relationships with terrorist circles**

The CSSF published two additional circulars concerning the identification and declaration of business relationships with terrorist circles. Like the previous circulars relating to the above, the CSSF circulars 01/44 of 13 December 2001 and 02/51 of 3 January 2002 update the list of people and entities to which the freezing of funds and other financial resources against the Taliban of Afghanistan apply.

### **CSSF Circular 01/45 concerning the statistics on deposits and guaranteed instruments**

Within the scope of the CSSF's annual exercise to collect data on the basis of the mandate received by the AGDL, the Commission de Surveillance published the CSSF circular 01/45 of 18 December 2001. The credit institutions and the investment firms, members of the AGDL, are invited to return the duly completed tables of the data relating to deposits and guaranteed instruments of their establishment to the CSSF by 31 March 2002.

### **CSSF circular 01/46 concerning the abolishment of the CSSF circular 01/35**

The CSSF circular 01/46 of 19 December 2001, which abolishes the CSSF circular 01/35 of 25 September 2001, details that the CSSF will henceforth only communicate the lists published by regulations issued at community level, concerning the identification and declaration of business relationships with terrorist circles.

### **CSSF circular 01/47 concerning the professional obligations of domiciliation agents of companies, general recommendations and a modification of the CSSF circular 01/28**

The CSSF circular 01/47 is consistent with the context of the law of 31 May 1999 governing the domiciliation of companies and its main objective is to determine the professional obligations that domiciliation agents of companies under the supervision of the CSSF must fulfil before and after the signature of a domiciliation contract. In this context, the following obligations are mentioned and detailed:

- the obligation to check that the domiciled company respects the clauses relating to the domicile within the meaning of article 2 second paragraph of the law of 10 August 1915 concerning commercial companies as amended;

- the obligation to know and to supervise the real identity of the members of the domiciled company, its shareholders and/or rightful economic owners as well as to keep and to update the documentation that allows for the identification of these people;
- the obligation to check that the domiciled company respects the applicable legal clauses, in particular those of the law of 10 August 1915 concerning commercial companies relating to the establishment of their accounts, the convening and holding of annual general meetings;
- the obligation to arrange for the deposit and the publication of the termination of the domiciliation contract.

The objective of this circular is also to give general recommendations to domiciliation agents of companies which might find themselves in conflict of interest situations by accepting mandates as director, manager, auditor in a domiciled company or by placing one or several person(s) acting as shareholder(s) or founder(s) at the domiciled company's disposal.

Finally, the CSSF circular 01/47 modifies the clause contained in the CSSF circular 01/28 relating to information to be communicated to the Commission de Surveillance du Secteur Financier in the case where the domiciliation agent is not authorised.

**CSSF circular 01/48  
adding to the CSSF circulars 00/16, 01/31, 01/37 and the IML circular 94/112  
concerning the fight against money laundering and the prevention of the use  
of the financial sector for money laundering activities**

In the CSSF circular 01/48 of 20 December 2001, the CSSF draws the attention of persons and companies under its supervision to the fact that the Financial Action Task Force (FATF) has been prompted to decree the application of counter-measures defined in the FATF report of June 2001 on non-cooperative countries and territories to Nauru. All the professionals of the financial sector must pay their utmost attention when entering a business relationship with counterparts having a direct or indirect link with this country. The same applies to the execution of any financial transaction having a direct or indirect link with Nauru.

**CSSF circular 01/49 and 01/50  
concerning an update of the CSSF circular 2000/10 and 2000/12 regarding the  
definition of own funds ratios in application of article 56 of the law of 5 April  
1993 relating to the financial sector as amended**

The CSSF informs that the Slovak Republic henceforth belongs to zone A countries and that point 24 of "Part A: Definitions" (page 16) of the CSSF circular 2000/10 and point 23 of "Part A: Definitions" (page 16) of the CSSF circular 2000/12 are consequently modified.

## **Circular letter of 19 December 2001 concerning the survey on procedures to establish in order to respect the CSSF circular 01/40 (fight against money laundering)**

In its Newsletter n° 11, the CSSF drew the attention of its readers to the importance of circular 01/40 relating to the extent of the professional obligations foreseen in part II of the law of 5 April 1993 on the financial sector as amended and the IML circular 94/112 concerning **the fight against money laundering and the prevention of the use of the financial sector for money laundering activities.**

Following this circular, the CSSF sent a circular letter to the credit institutions and the other professionals of the financial sector on 19 December 2001. The main goal of this circular letter is to proceed to a survey on the modifications of procedures operated by the professionals of the financial sector following the CSSF circular 01/40.

In this context, the CSSF found it useful to provide some additional explanations to guide the professionals of the financial sector in their elaboration of new procedures in the following situations:

- i. When the professionals of the financial sector, in the exercise of their professional activity, become aware of a fact which could be an indication of money laundering without a business relationship having been established or a transaction having been effected [see point 1) of the circular letter].
- ii. When the professionals of the financial sector are confronted with a request for entering a business relationship or a demand to effect a transaction for a person (e.g. a lawyer or a notary), whose normal professional activity involves the conservation of funds from third parties with a financial professional [see point 2) of the circular letter].

On the one hand, in the case where such a person acts on his/her own account, the usual identification procedures as foreseen by the law of 5 April 1993 on the financial sector as amended and detailed in particular by the IML circular 94/112 apply.

On the other hand, in the case where such a person acts on behalf of third parties, he/she can open accounts serving two fundamentally different goals:

- a) The funds passing through these accounts can originate from the professional activity of the aforementioned persons when they act within the framework of their advisory activities of their clients concerning the evaluation of the latter's legal situation excluding the activities referred to point b) below or when they act as representatives of their clients in a judicial procedure. As examples, one can mention the cash flows resulting from the liquidation of damages during legal proceedings aimed at obtaining a compensation for physical or material damages suffered, the payment of alimony in divorce proceedings, the execution of payment requests, compensation payments in the subject of labour law, the liquidation of legal costs and expenses. In this context, the professional of the financial sector has to evaluate the plausibility of these persons' assertions and he/she need not proceed with the identification of economic beneficiaries when he/she is satisfied with the explanations received by the account holders.

- b) When the funds passing through the accounts in question originate from another professional activity of these persons, as for instance, the management of funds or assets belonging to their clients, the organisation of the necessary funds for the constitution, management or direction of companies or similar structures, the constitution, management or direction of Trusts (fiducies, Stiftungen), of companies or similar structures, the purchase and sale of real estate or commercial companies, then the professional of the financial sector has no reason not to proceed with the identification of the economic beneficiaries of these funds.

In all cases, the professionals of the financial sector continue to be bound to diligently follow the evolution of the operations effected by these persons and will have to take all the necessary information to avoid any risk of money laundering.

The integral text of the circular letter is available at the following address:

[http://www.cssf.lu/docs/lettre\\_circ\\_blanchiment.pdf](http://www.cssf.lu/docs/lettre_circ_blanchiment.pdf)

## Results of the New Basle Accord questionnaire

On 25 September 2001, the CSSF sent a circular letter to all the credit institutions falling under Luxembourg law containing a questionnaire on the principal options foreseen by the credit institutions within the scope of the new regulation regarding the appropriateness of own funds ("Basle II").

The aims of this questionnaire were to

- make the credit institutions more aware of the developments in the New Accord;
- follow up on the credit institutions' preparations for the application of the New Accord;
- collect additional information on risk management and the capacities of the credit institutions' computer systems.

The questionnaire covered the first pillar of the New Accord, as defined in the second consultation document of the Basle Committee published in January 2001.

The replies received give an indication as to the choice foreseen, but do not commit the respondents to using the methods chosen.

It should be noted that most of the banks will follow the approach chosen by the parent company.

The survey shows that a significant part of the Luxembourg banks intend either to use more sophisticated and risk-sensitive approaches from the start, or to pass to more advanced approaches at a later stage. As a result, 27% of the banks intend using the IRB approach or the "internal ratings-based approach" and 12% of the banks have chosen an "internal measurement" approach for the operational risk.



## Replies concerning the “Credit risk” section

**93** banks will use the standardised approach, of which

- 88 will use the simple approach;
- 4 will use the “comprehensive haircut approach”, of which one is by “own estimates”;
- 1 bank is undecided;
- 2 banks want to pass to the IRB approach in the future.

**34** banks will use the IRB approach, of which

- 24 will use the basic approach;
- 10 will use the advanced approach.

The significant number of banks wanting to use the simplest approach (and also the most conservative) can be explained by

- the good capitalisation and high ratios of the Luxembourg banks in general;
- a lack of incentives in terms of costs/benefits;
- the high number of banks incurring a low credit risk, due to the importance of the private banking activities.

## Replies concerning the “Operational risk” section

**51** banks want to use the basic indicator approach.

**55** banks want to use the standardised approach.

**16** banks want to use the “internal measurement approach”.

**10** banks are undecided or have not given a response. Among the undecided banks, 3 are hesitating between the basic indicator approach and the standardised approach, while one bank is hesitating between the standardised approach and the “internal measurement approach”.

The number of undecided banks can be explained by the absence of a definite calibration for the three approaches. The choice of an advanced approach can also depend on the availability of data and the possibility of using a “pool” of data.

## **Second meeting of the CESR**

Meeting for the second time on 10 and 11 December 2001 in Madrid, the Committee of European Securities Regulators (CESR) has made significant progress with its work programme and has finalised the process of its establishment.

The press release of 18 December 2001 relating to the meeting as well as the consultative documents are available on the CESR website

(<http://www.europefesco.org>).

## LIST OF BANKS

### Withdrawals:

Osmanli Bankasi A.S (Ottoman Bank), Luxembourg branch, on 14 December 2001  
(merger with Garanti Bank, Luxembourg branch)

Bank Handlowy International S.A., on 18 December 2001

Banca de la Pequeña y Mediana Empresa (Bankpyme), Barcelona (Spain)  
Luxembourg branch, on 31 December 2001

Banque Baumann & Cie S.A., on 31 December 2001 (merger with VP Bank  
Luxembourg S.A.)

M.M. Warburg & CO, Hamburg (Germany), Luxembourg branch, on 31 December  
2001

### Change of address:

Cortal Bank  
24, boulevard Royal, L-2440 Luxembourg  
Postal address: B.P. 390, L-2013 Luxembourg

## LIST OF THE PROFESSIONALS OF THE FINANCIAL SECTOR (PFS)

### New establishment:

**ABN AMRO INVESTMENT FUNDS S.A.**  
46, avenue J.F. Kennedy, L-1855 Luxembourg  
Distributor of units of investment funds without effecting or accepting payments  
Ministerial authorisation of 11 December 2001

### Withdrawals:

DEGROOF, THIERRY & ASSOCIES S.A.  
in abbreviated form "D.T.A."  
Merger by absorption by another PFS of the group, Degroof, Portabella S.A.  
Ministerial authorisation of 27 December 2001

HSBC INVESTMENT FUNDS (LUXEMBOURG) S.A.  
Ministerial authorisation of 31 December 2001

### Change of name:

KB CONSEIL-SERVICE S.A. has become  
**KBC CONSEIL-SERVICE S.A.** on 17 December 2001

Extension of status:

**PETERCAM (LUXEMBOURG) S.A.**

Status as professional acting for its own account extended to **distributor of units of investment funds authorised to accept and effect payments** on 19 December 2001

Change of status:

**TIMING CONSULT S.A.**

Withdrawal of its status as private portfolio manager to become **financial advisor** on 17 December 2001

## LIST OF PENSION FUNDS

Official list as at 31 December 2001 of Luxembourg pension funds governed by the law of 8 June 1999 as amended

Registrations:

DEXIA PENSION FUND, 69, route d'Esch, L-2953 Luxembourg

PRIME PENSION, BGL ASSEP B, 50, avenue J.F. Kennedy, L-2951 Luxembourg

## LIST OF LIABILITY MANAGERS

Official list as at 31 December 2001 of the professionals authorised to exercise the activity of liability manager for pension funds subject to the law of 8 June 1999 as amended

ACTUALUX S.A., 5, place de la Gare, L-1616 Luxembourg

BARNETT WADDINGHAM S.A., 16, avenue Grand-Duc Jean, L-1842 Howald

DEXIA INSURANCE & PENSIONS SERVICES S.A., 2, rue Nicolas Bové, L-1253 Luxembourg

ESOFAC INTERNATIONAL S.A., 37, rue Michel Engels, L-1465 Luxembourg

LA LUXEMBOURGEOISE-VIE S.A., 51, avenue de la Gare, L-1611 Luxembourg

LE FOYER VIE Compagnie Luxembourgeoise d'Assurances S.A., 6, rue Albert Borschette, L-1246 Luxembourg

WILLIAM M. MERCER S.A., 68, boulevard du Souverain, B-1170 Bruxelles

## LIST OF UNDERTAKINGS FOR COLLECTIVE INVESTMENT (UCI)

Registrations on and withdrawals from the official list of the Luxembourg undertakings for collective investment which fall under the law of 30 March 1988 and the official list of undertakings for collective investment which fall under the law of 19 July 1991, during the **month of November 2001**:

### Registrations:

- ALTERNATIVE UNITS, 14, boulevard Royal, L-2449 Luxembourg
- AXA INSURANCE FUND, 58, boulevard Grande-Duchesse Charlotte, L-1330 Luxembourg
- DB OPPORTUNITY, 2, boulevard Konrad Adenauer, L-1115 Luxembourg
- DIT-FONDS PORTFOLIO BALANCE II, 6A, route de Trèves, L-2633 Senningerberg
- DIT-FONDS PORTFOLIO BALANCE, 6A, route de Trèves, L-2633 Senningerberg
- DIT-FONDS PORTFOLIO ERTRAG II, 6A, route de Trèves, L-2633 Senningerberg
- DIT-FONDS PORTFOLIO ERTRAG, 6A, route de Trèves, L-2633 Senningerberg
- DIT-FONDS PORTFOLIO WACHSTUM II, 6A, route de Trèves, L-2633 Senningerberg
- DIT-FONDS PORTFOLIO WACHSTUM, 6A, route de Trèves, L-2633 Senningerberg
- DIT-GLOBAL FUND SELECTION II, 6A, route de Trèves, L-2633 Senningerberg
- DIT-GLOBAL FUND SELECTION III, 6A, route de Trèves, L-2633 Senningerberg
- DIT-GLOBAL FUND SELECTION IV, 6A, route de Trèves, L-2633 Senningerberg
- DIT-GLOBAL FUND SELECTION, 6A, route de Trèves, L-2633 Senningerberg
- DWS TOPZINS, 2, boulevard Konrad Adenauer, L-1115 Luxembourg
- HSBC INTERNATIONAL SELECT FUND, 69, route d'Esch, L-1470 Luxembourg
- JULIUS BAER MULTISELECT I, 69, route d'Esch, L-1470 Luxembourg
- MEESPIERSON PRIVILEGED INVESTORS, 50, avenue J-F Kennedy, L-1855 Luxembourg-Kirchberg
- MULTI ASSETS GARANT II, 2, boulevard Konrad Adenauer, L-1115 Luxembourg
- NOVELLUS FUND, 11, rue Aldringen, L-1118 Luxembourg
- PICTET MODAL FUND, 1, boulevard Royal, L-2449 Luxembourg
- SEB INVEST FUNDS, SICAV, 39, allée Scheffer, L-2520 Luxembourg
- SGAM EQUISYS FUND, 11-13, avenue Emile Reuter, L-2420 Luxembourg
- SPARINVEST, 8-10, avenue de la Gare, L-1610 Luxembourg
- STARCAP, 4, rue Thomas Edison, L-1445 Luxembourg-Strassen

### Withdrawals:

- EUROPE INTER LUXEMBOURG, 50, avenue J-F Kennedy, L-1855 Luxembourg-Kirchberg
- FORTIS L UNIVERSAL FUND, 50, avenue J-F Kennedy, L-1855 Luxembourg-Kirchberg
- GLOBAL MESSENGER EPOCA (SHIN-KIGEN), 10a, boulevard Royal, L-2449 Luxembourg
- HYPO - TPA, 11, rue Aldringen, L-1118 Luxembourg
- INTERSELEX INTERNATIONAL, 14, rue Aldringen, L-1118 Luxembourg
- J.P. MORGAN FUNDS, 5, rue Plaetis, L-2338 Luxembourg
- JPM U.S. EQUITY FUND, 5, rue Plaetis, L-2338 Luxembourg
- LION CONVERTIBLE EURO, 26a, boulevard Royal, L-2449 Luxembourg
- LION-BELGIUM, 2, boulevard Konrad Adenauer, L-1115 Luxembourg
- LION-EUROCASH, 26a, boulevard Royal, L-2449 Luxembourg
- MONEY PLUS, 2, boulevard Konrad Adenauer, L-1115 Luxembourg
- OPPENHEIM AKTIEN EUROPA SELECT, 4, rue Jean Monnet, L-2180 Luxembourg-Kirchberg
- PROTECTION 108, 1B, Parc d'activité Syrdall, L-5365 Munsbach
- TERTIO, 14, rue Aldringen, L-1118 Luxembourg



# Financial centre

The main updated figures regarding the financial centre:

Number of banks: **187** (1 January 2002)

Balance sheet total: **EUR 704.53 billion** (30 November 2001)

Net profit: **EUR 2.338 billion** (30 September 2001)

Employment: **23 814 people** (30 September 2001)

Number of UCIs: **1 925** (31 December 2001)

Total net assets: **EUR 917.271 billion** (30 November 2001)

Number of pension funds: **5** (31 December 2001)

Number of PFS: **145** (31 December 2001)

Balance sheet total: **EUR 2.065 billion** (30 November 2001)

Net profit: **EUR 278 million** (30 November 2001)

Employment: **4 071 people** (30 September 2001)

Total employment in the supervised establishments: **27 885 people** (30 September 2001)

## CSSF Newsletter

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