

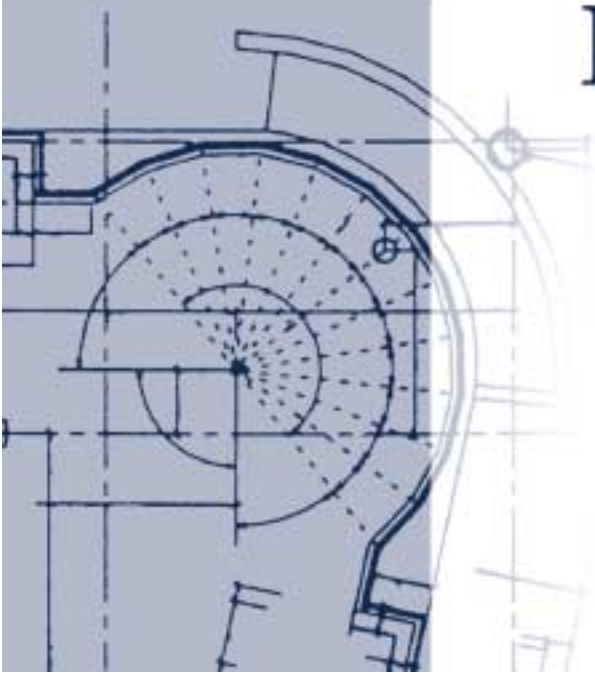
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# CSSF NEWSLETTER

COMMISSION de SURVEILLANCE  
du SECTEUR FINANCIER



## *Banks*

### **Banks' balance sheet total as at 31 August 2002 reports a decrease**

The balance sheet total for the banks established in Luxembourg reached EUR 668.101 billion as at 31 August 2002 compared to EUR 675.709 billion as at 31 July 2002, which is a decrease of 1.1 %.

Following the withdrawal of Sanpaolo IMI SpA, Luxembourg branch, the number of credit institutions registered on the official list of banks reaches 182 entities as at 30 September 2002.

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

### **Decrease in the balance sheet total**

According to the data provided as at 31 August 2002, the balance sheet total of all the professionals of the financial sector (147 active businesses) amounts to EUR 3.011 billion compared to EUR 3.120 billion the previous month, which is a decrease of 3.49 %.

The net profit for all the professionals of the financial sector amounts to EUR 257.69 million.

### **Distribution of the professionals of the financial sector according to their status (as at 30 September 2002)**

<b>Category</b>		<b>Number</b>
Commission agents	COM	15
Financial advisors	COF	9
Brokers	COU	6
Professional custodians of securities or other financial instruments	DEP	4
Distributors of units of investment funds	DIST	46
Domiciliation agents of companies	DOM	37
Private portfolio managers	GF	52
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>149</b>

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

## Undertakings for collective investment

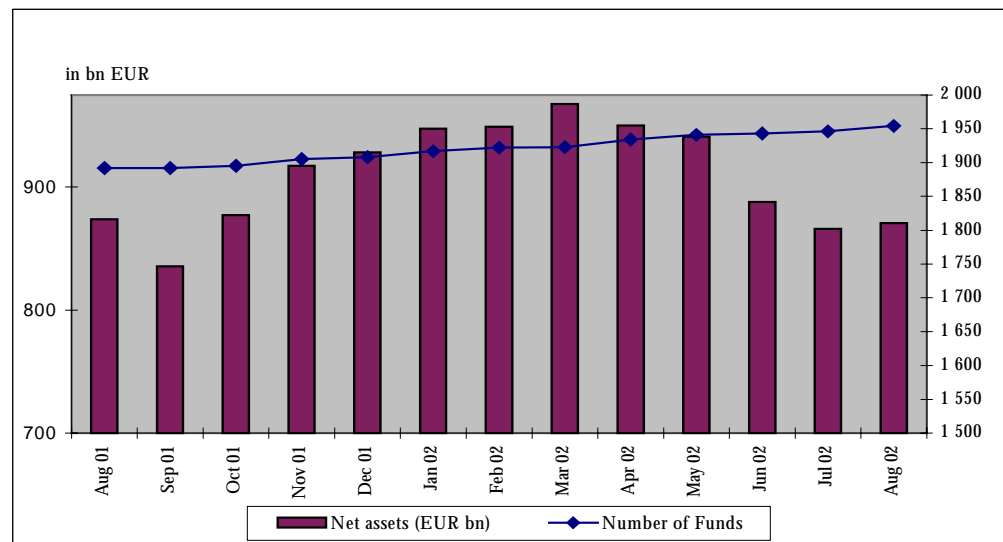
### *Slight increase in UCI's total net assets at the end of August 2002 (press release 2 October 2002)*

*As at 31 August 2002, the total net assets of undertakings for collective investment reached EUR 870.625 billion compared to EUR 866.147 billion as at 31 July 2002. Consequently, the Luxembourg undertakings for collective investment sector has increased by 0.52 % compared to July 2002.*

*For the month of August 2002, the sector decreases by 6.23% compared to 31 December 2001 when the total net assets amounted to EUR 928.447 billion. Over the last twelve months, the volume of net assets decreased by 0.37 %.*

*During the month of August 2002, the net capital investment amounted to EUR 3.473 billion. Compared to 31 December 2001, the net capital investment reaches EUR 51.417 billion.*

*The number of undertakings for collective investment taken into consideration totals 1,954 compared to 1,946 for the previous month. A total of 1,187 UCIs have adopted the multiple compartment structure, which represents 7,028 compartments. When adding 767 UCIs with a traditional structure to the previous figure, 7,795 compartments are active in the financial centre.*



## Recent regulatory developments

### CSSF Circulars 02/68, 02/70 and 02/72

The CSSF recently published three circulars relating to the identification and declaration of business relationships with terrorist circles. These circulars complete the list of persons and entities to which the freezing of funds and other financial resources applies.

### CSSF Circular 02/69

The CSSF Circular 02/69 relating to the adoption of certain restrictive measures in respect of Zimbabwe modifies the list of persons and entities referred to in the Council regulation.

### CSSF Circular 02/71

#### regarding the Law of 3 September 1996 concerning the involuntary dispossession of bearer securities

As the CSSF has been made aware that the provisions of article 8 (2) of the Law of 3 September 1996 regarding the effects of the forfeiture in the context of the involuntary dispossession of bearer securities are not always observed, it reminds all persons and companies under its supervision that the amounts referred to in the above-mentioned article must be deposited with the consignment office on an individual basis for each beneficiary and immediately after the date of maturity of the security or the closing of the liquidation of an UCI.

### Third quantitative impact survey of New Basel Accord

The Basel Committee on Banking Supervision launched its third quantitative impact study (QIS 3). Focusing on the proposed minimum capital requirements under pillar one of the New Basel Accord, the study aims at assessing the impact and efficacy of the proposals and ascertaining whether further modifications are necessary prior to the release of the third consultation paper in spring 2003.

There are three parts to the QIS 3: a questionnaire in the form of an electronic workbook that automatically calculates the proposed capital requirements, instructions that specify how to complete the questionnaire and technical guidance. Credit institutions willing to participate in the QIS 3 study are invited to return the completed questionnaires to Mrs Joëlle MARTINY (tel.: +352 26 251 352) or Mr. Davy REINARD (tel.: +352 26 251 302) of the CSSF by 1 December 2002. Luxembourg's areas of national discretion will also be made available upon request.

The QIS 3 materials are available on the BIS website at [www.bis.org](http://www.bis.org).

## **Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC**

Following its adoption at the second reading by the European Parliament, the Directive on the distance marketing of financial services has been published on 9 October 2002 in the Official Journal of the European Communities.

The Directive applies to all financial services suppliers. The concept of financial services encompasses banking products, insurance products and investment services. The directive exclusively deals with the distance marketing of financial services, whatever means of communication are used. It aims at defining a harmonised legal framework that covers the conclusion of distance contracts for financial services in order to establish an appropriate level of consumer protection in all Member States. To that end, it notably introduces an obligation to provide various pieces of information prior to the conclusion of a contract and to confirm this information in writing. Consumers enjoy a right to withdraw. The directive also provides consumer protection as regards payments made by cards and limits the use of distance means of communication.

### **Proposal for a Directive on takeover bids**

On 2 October 2002, the European Commission presented a new proposal for a Directive on takeover bids following the rejection by the European Parliament of the previous proposal in July 2001.

The proposal sets out the basic principles that should govern takeover bids and establishes a set of measures requiring Member States to designate the relevant supervisory authorities and the applicable law as regards cross-border bids. It also retains the principle that sufficient information on the bid should be made public in order to ensure its transparency. The protection of shareholders and in particular that of minority shareholders rests on two obligations:

- the obligation to address a bid to all holders of securities for all their holdings of that company, in case an acquisition of control has occurred;
- the obligation to address a bid to all shareholders at an equitable price.

The proposal attempts to respond in a comprehensive manner to concerns voiced by the European Parliament by introducing several elements, such as the “Squeeze-out right”, its quid pro quo, the “Sell-out right”, the definition of “equitable price” to be paid in case of a mandatory bid, rules aiming at creating fair conditions as well as rules clarifying the rights of the employees.

## **Twelfth International Conference of Banking Supervisors (ICBS)**

Mr Claude Simon, head of the department “Supervision of Banks”, represented the CSSF at the twelfth International Conference of Banking Supervisors (ICBS) held at the invitation of the South African Reserve Bank, gathering about 150 banking supervisory authorities from nearly 120 countries in Cape Town on 18 and 19 September 2002.

The two main themes of the conference were the *Review of the Basel Capital Accord* and *How to create a stable financial environment in emerging market economies*. In addition, two special panel sessions took place on *Customer due diligence and terrorist financing* and *Loan accounting*

At the close of the customer due diligence session, participants declared their commitment to adopt the standards set out in the Basel Committee’s *Customer due diligence for banks*, in particular the adoption of procedures as part of effective customer due diligence programmes and sharing of information related to terrorist financing and money laundering.

Conference participants thereby acknowledged that customer due diligence is a prudential responsibility and agreed to promote the adoption of the report’s principles by the institutions under their supervision. The measures at issue have already been implemented within the European Union.

## **Meeting of the honorary consuls of the German-speaking countries**

Mr Jean-Nicolas Schaus presented the main challenges facing the financial sector to the honorary consuls of the Grand Duchy originating from German-speaking countries, who met at the invitation of the Minister of Foreign Affairs on 2 October 2002 in Luxembourg.

## **11th ALFI/NICSA Annual Conference: third Directive on undertakings for collective investment in transferable securities**

During the 11th “Europe-United States investment funds forum” organised by the Association luxembourgeoise des fonds d’investissement (Luxembourg association of investment funds, ALFI) and the National Investment Company Services Association (NICSA) held in Luxembourg on 24 and 25 September, Mrs Simone DELCOURT, head of the department “Supervision of UCIs” presented the perspective of the CSSF regarding the translation into national law of the new European Directives concerning undertakings for collective investment in transferable securities (UCITS III):

[...]

*Finally, and considering the last 12 months and the economic situation, I am of the opinion that the UCITS III product directive will bring a moderate but positive development to the Luxembourg fund industry, at least in the near future.*

[...]

*As for the management companies, UCITS III opens the cross border activity for these entities once they comply with the minimum requirements set by the directive. While UCITS I has limited the scope of management companies to the sole activity of collective portfolio management, UCITS III now permits such companies to carry out the activity of individual portfolio management as well.*

*For the time being 326 management companies are established in Luxembourg. Not all of them will be subject to the new directive, as many of them will not manage an UCITS. The CSSF estimates, that after a consolidation period, 70 to 80 management companies managing at least one UCITS will still be active.*

*What will be the perspective for the Luxembourg management companies? How will they integrate into the market?*

*It is worthwhile mentioning that management companies set up before August 13, 2004 will benefit from the grandfathering clause until 2007 to comply with the new regulatory conditions, such as capital requirements, internal procedures etc. imposed by UCITS III.*

*During this period, the Luxembourg management companies subject to the directive will have to reconsider their role in the field of managing collective investment schemes. It is commonly admitted that the management of collective investment schemes includes many specialised services, such as transfer agency services, book keeping services, distribution services, etc. In order to reach economies of scale in the fund business, a management company may delegate specific tasks to a specialised entity.*

[...] *The opportunities for Luxembourg management companies will be multiple. They have the professional skills to organise and control the management of UCITS. They will improve their capability to offer services. Concerning the Luxembourg established management company I would say that a diversification will take place depending on the origin of the shareholders of the management company. Therefore, some will be more specialised in the distribution, others in administration or transfer agency, others in compliance functions.*

*The CSSF is of the opinion that the directive on management companies, combined with the dynamism of the industry, will have a positive effect in the medium term as there may be a trend towards further specialisation in the financial centre.*

*I also mentioned the role of the authorities and the regulators in the implementation of UCITS III. It can be stated at this stage that the Luxembourg Authorities will do their utmost to implement the new directive within the timeframe imposed by the directive.*

## The “acquis communautaire” in the financial services sector

On 19 and 20 September 2002, the TAIEX Office (Technical Assistance Information Exchange Office) of the DG Enlargement of the European Commission had organised a seminar in co-operation with the Ministry of Foreign Affairs and the Financial Technology Transfer Agency (ATTF) of Luxembourg on the implementation of the “acquis communautaire” in the financial services sector. Gathering representatives of the supervisory authorities of the applicant countries for EU membership, the seminar aimed at presenting the Luxembourg practice in this field and learning from its experience.

To this end, the speakers presented the existing legislation and regulations in the Luxembourg financial sector from many different angles. Representatives from the CSSF concentrated more particularly on the prudential supervisory practice:

- Prudential regulation and supervision of the investment funds sector in Luxembourg, by Mrs Delcourt and Ms Schmit (Department for the Supervision of UCIs).
- Prudential regulation and supervision of the pension funds sector in Luxembourg by Mrs Campill (Division Supervision of pension funds).
- Consequences of e-banking for the prudential supervision of financial institutions by Mr Hagen (IT audit)
- Implementation and enforcement of the money-laundering directives by Mr Weitzel (Director General’s advisor).



## LIST OF BANKS

### Withdrawal:

**Sanpaolo IMI SpA**, Torino (Italy), Luxembourg branch at 30 September 2002

### Change of name:

Banque Pictet (Luxembourg) S.A. has become  
**Pictet & Cie (Europe) S.A.**

Bayerische Landesbank Girozentrale, Luxembourg branch has become  
**Bayerische Landesbank**, Luxembourg branch

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

### New establishment:

**CONRAD HINRICH DONNER VERMÖGENSVERWALTUNG LUXEMBURG S.A.**

Private portfolio manager and distributor of units of investment funds authorised to accept and effect payments  
18, boulevard de la Foire, L-1528 Luxembourg  
Ministerial authorisation of 25 September 2002

**EXPERTA CORPORATE AND TRUST SERVICES S.A.**

in abbreviated form: "EXPERTA S.A.", Private portfolio manager  
69, route d'Esch, L-1470 Luxembourg  
Ministerial authorisation of 16 September 2002

### Change of name:

MORLEY CORPORATE SERVICES S.A. has become  
**AVIVA CORPORATE SERVICES S.A.**

## LIST OF PENSION FUNDS

### New pension fund:

**K BRIDGE**

23, avenue de la Porte-Neuve, L-2227 Luxembourg  
Authorisation of 11 September 2002

### Change of address:

**THE UNILEVER INTERNATIONAL PENSION PLAN**

5, rue Plaetis, L-2338 Luxembourg

## LIST OF UNERTAKINGS 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 August 2002**

### Registrations

- BCN-FONDS, 4, rue Thomas Edison, L-1445 Luxembourg-Strassen
- BERENBERG EURO STRATEGIE AKTIEN FONDS III, 4, rue Thomas Edison, L-1445 Luxembourg-Strassen
- BLUEBAY FUNDS, 33, boulevard du Prince Henri, L-1724 Luxembourg
- FT OPTIRENT 6/2006, 283, route d'Arlon, L-1150 Luxembourg
- GESTFIN, 14, boulevard Royal, L-2449 Luxembourg
- HSBC ASSET MANAGEMENT INVESTMENT FUNDS, 69, route d'Esch, L-1470 Luxembourg
- LIGA-PAX-CATTOLICO-UNION, 308, route d'Esch, L-1471 Luxembourg
- MARGIN OF SAFETY FUND, 39, allée Scheffer, L-2520 Luxembourg
- PREMIUM INVEST FUND, 69, route d'Esch, L-1470 Luxembourg
- SHINSEI BLUEBAY FUNDS, 33, boulevard du Prince Henri, L-1724 Luxembourg
- TAMARIS ALTERNATIVE FUND, 52, route d'Esch, L-1470 Luxembourg
- UBS ACCESS SICAV, 291, route d'Arlon, L-1150 Luxembourg

### Withdrawals

- ALTERNATIVE LEADERSHIP FUND, 20, boulevard Emmanuel Servais, L-2535 Luxembourg
- EMERGING AMERICA FUND, 20, boulevard Emmanuel Servais, L-2535 Luxembourg
- SEB PRIVATE EQUITY FUND, 6A, Circuit de la Foire Internationale, L-1347 Luxembourg-Kirchberg
- UNITED ASSETS FUNDS, 10a, boulevard Royal, L-2449 Luxembourg

# Financial centre

Main updated figures regarding the financial centre:

Number of banks: **182** (30 September 2002)

Balance sheet total: **EUR 668.101 billion** (31 August 2002)

Profit before reserves: **EUR 2.17 billion** (30 June 2002)

Employment: **23,667 people** (30 June 2002)

Number of UCIs: **1,953** (10 October 2002)

Total net assets: **EUR 870.625 billion** (31 August 2002)

Number of pension funds: **5** (30 September 2002)

Number of PFS: **149** (30 September 2002)

Balance sheet total: **EUR 3.01 billion** (31 August 2002)

Net profit: **EUR 257.69 million** (31 August 2002)

Employment: **4,339 people** (30 June 2002)

Total employment in the supervised establishments: **28,030 people** (31 March 2002)

Total employment in the supervised establishments: **28,006 people** (30 June 2002)

## CSSF Newsletter

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