No 3

# CSSF NEWSLETTER

*Commission de surveillance du secteur financier – Monthly information letter*

## Staff

### Recruitment of 26 new agents

Following a recruitment drive launched in the beginning of February, the CSSF will take on 26 new agents in order to increase its staff from 155 to 181 agents. The new agents will be assigned to the different departments as follows:

- Supervision of Banks: 10 university degree holders (economists, legal, finance, business and computer sciences graduates);
- Supervision of Undertakings for Collective Investment: 3 university degree holders and 7 employees (*carrière moyenne*, secondary school level equivalent);
- Supervision of the other Professionals of the Financial Sector: 3 university degree holders and 1 employee (*carrière moyenne*, secondary school level equivalent*);*
- Administration and Finance: 2 employees.

## Annual report

### Presentation on 23 April 2001

The CSSF will present its Annual Report 2000 during a press conference to be held on 23 April 2001 at 10:30 a.m. at the CSSF's premises: 110, route d'Arlon, Luxembourg.

# Statistics

## *Undertakings for collective investment*

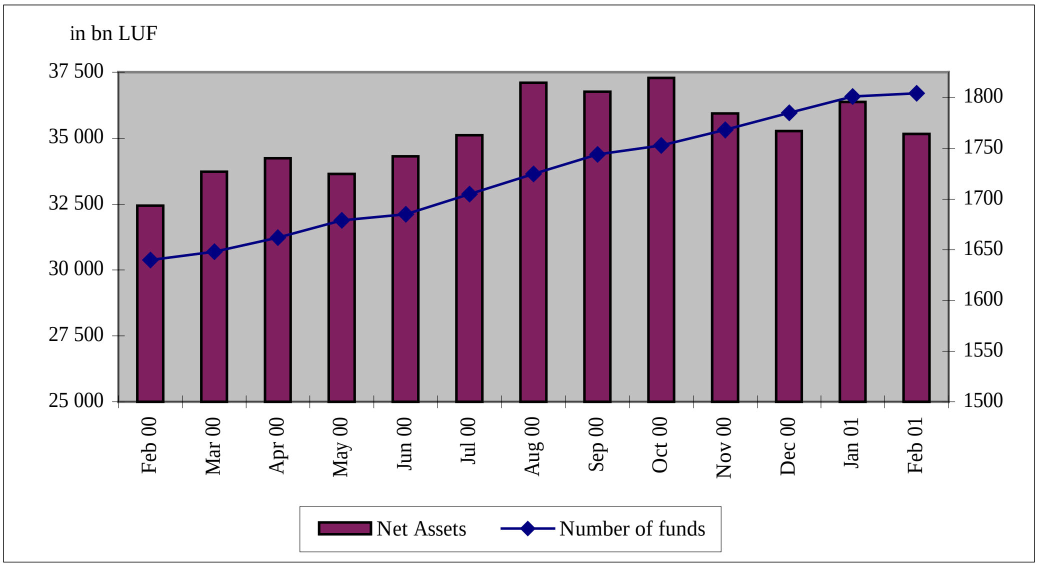
### Decrease of 3.29% in the UCIs' total net assets at the end of February 2001 (communicated to the press on 2 April 2001)

*The total net assets for undertakings for collective investment amounted to EUR 871.8 billion (LUF 35,170.0 billion) as at 28 February 2001, compared to EUR 901.4 billion (LUF 36,364.7 billion) as at 31 January 2001. As a result, the Luxembourg undertakings for collective investment sector has decreased by 3.29% compared to the month of January 2001. This decrease can be explained by an overall fall in the financial markets.*

*The sector is witnessing a decrease of 0.31% compared to 31 December 2000, where the total net assets amounted to EUR 874.6 billion (LUF 35,280.7 billion). Over the last twelve months, the volume of net assets has increased by 8.41%.*

*During the month under review, 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 10.8 billion (LUF 436.7 billion). The number of undertakings for collective investment taken into consideration totals 1,804 compared to 1,801 for the previous month. 1,053 UCIs have adopted the multiple compartment structure, which represents a total of 6,333 compartments.*

*When adding 751 UCIs with a traditional structure to the previous* figure, *a total of 7,084 compartments are active in the financial centre.*



# Statistics

## *Banks*

**Banks' balance sheet total at EUR 665.32 billion**

The balance sheet total for the banks established in Luxembourg reached EUR 665.32 billion as at 28 February 2001 compared to EUR 658.13 billion as at 31 January 2001, which is a slight increase of 1.1%.
As at 1 April 2001, the number of credit institutions registered on the official list of banks added up to 197, which is a decrease of two units compared to the previous month, and due to the merger of SEB Private Bank SA with BfG Bank Luxembourg SA and that of HELABA Luxembourg-Landesbank Hessen-Thüringen Intl SA with Bayerische Landesbank Intl SA.

## *PFS*

**Balance sheet total of EUR 2.02 billion on the decline by 7.5%**

According to the data provided as at 28 February 2001, the balance sheet total of all the professionals of the financial sector (127 businesses active in total) adds up to EUR 2.023 billion compared to EUR 2.210 billion the previous month, which is a substantial reduction of 7.56%.

This decrease concentrates on a few undertakings which have witnessed significant variation in their balance sheet.

# Regulation

**Legislative and regulatory developments in the financial sector that occurred during the month of March 2001**

## *European legislative and regulatory framework*

**Directive on the reorganisation and winding-up of credit institutions**

On 12 March 2001, the ECOFIN Council adopted the proposal for the Directive on the reorganisation and winding-up of credit institutions. This proposal is consistent with the first and second Directives on banking co-ordination. While the latter concern the access to the banking activity and its

practice, this document relates to measures to be taken, should a bank encounter solvency problems, and more specifically to the co-operation between prudential supervisory authorities of the Community in times of crisis. Following the example of the previous directives, it maintains the principle that only the authorities of the state where the credit institution is registered are responsible, and that the measures defined by the originating Member State apply.
The "reorganisation" section establishes the exclusive responsibility of the (prudential or judicial) authorities of the EU Member State of origin. The measures taken by the authorities of the country of origin apply to the territories of the concerned host countries.
The "liquidation" section establishes the principle of the bankruptcy unity and universality. The Directive aims at organising the winding-up of credit institutions by establishing that only the authorities of the home Member State are exclusively responsible with regards to a winding-up proceeding (application of the *lex fori*) and that the measures taken are applicable to all other Member States. Pursuant to this Directive, when credit institutions with branches established in other EU Member States are insolvent, only the State where the credit institution is registered (State of origin) can initiate an insolvency proceeding, which will only be subject to a single bankruptcy law, i.e. that of the country of origin. The application of the bankruptcy law of this country allows for the equal treatment of all the creditors of the defaulting credit institution.

## Political Agreement on UCITS Directive

Directive 85/611/EEC on the co-ordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) is currently subject to two amendment proposals, namely the "first proposal" and the "second proposal". Both proposals, presented in 1998, have been modified by the European Commission in May 2000 in order to take into account the opinion of the Parliament after its first reading in February 2000.

The first proposal widens the range of assets in which harmonised UCITS can invest and allows under specific conditions the investment in deposits, derivative instruments, monetary instruments or in parts of UCITS and other UCIs. It also allows under specific conditions UCITS that track official indices.

The second proposal concerns the rules on management companies and the introduction of simplified prospectuses. It widens the scope of activities of the management companies and authorises them to carry out, besides collective management for the account of UCIs, discretionary management for the account of individual and institutional investors, including pension funds. Furthermore, the second proposal provides a "European passport" to companies managing UCITS and introduces the simplified prospectuses that can be freely used as marketing documents within the Member States.
The Council was able to reach a political agreement on 17 October 2000 and on 12 March 2001 on the first and the second proposal respectively. Both documents will be submitted to the European Parliament for a second reading planned to take place before July 2001.

## *National regulatory developments*

### CSSF Circular 2001/24 of 16 March 2001 on data collection for the account of the AGDL

The annual data collection by the CSSF under a mandate from the AGDL (Deposit Guarantee Association Luxembourg) presents two new aspects compared to the previous years. Henceforth, the data concern not only deposits but also investment transactions. Furthermore, for the first time, investment firms are also included. These fundamental changes result from the adoption of the Law of 27 July 2000 transposing Directive 97/9/EC relating to investor-compensation schemes into the Law of 5 April 1993 on the financial sector as amended.

### CSSF Circular 01/26 of 21 March 2001 relating to the Law of 12 January 2001 transposing the Directive 98/26/EC on the settlement finality in payment and securities settlement systems into the Law of 5 April 1993 on the financial sector as amended and complementing the Law of 23 December 1998 creating the Commission de Surveillance du Secteur Financier.

The Circular draws the attention of credit institutions and other professionals of the financial sector to the implementation of the Law of 12 January 2001 (see Newsletter n. 2, March edition). The concerned professionals, who wish that formal agreements reached with other financial professionals fall under this legal protection, are requested to submit their application to the CSSF for approval by the Minister.

The approved Luxembourg systems as well as the operators of these systems are subject to the supervision of the CSSF. The Commission will communicate its practical methods of supervision in a separate circular.

### CSSF Circular 01/27 of 23 March 2001 on practical rules governing the mission of external auditors.

The Circular defines the rules governing the auditing of financial statements as well as the contents of analytical reports to be drawn up according to Article 54 (1) of the Law of 5 April 1993 on the financial sector as amended. The Circular concerns all the credit institutions established in Luxembourg, except branches of EU-originating credit institutions. The CSSF will publish a separate Circular for these branches, as only certain areas, subject to the supervision of the CSSF as host authority, need to be audited by an external auditor. The Circular updates IML Circular 89/60, which became obsolete due to the legislative, regulatory and prudential development since 1989.

# Position taken

## Consequences for the prudential supervision of the Basle II Capital Accord

Invited by the International Bankers Club Luxembourg on 11 March 2001 within the scope of its monthly meetings, Mr. Jean-Nicolas Schaus, Director General dealt with the consequences of the Basle II Capital Accord of 16 January 2001.

*"…The three pillars work together to contribute to a higher level of safety and soundness in the financial system and therefore need to be fully implemented by national supervisors. In principle, a harmonised implementation around the world would therefore be preferable in order to maintain a level-playing field on an international level. However, some of the provisions of the New Accord are prone to lead to diverging interpretations and readings by supervisory authorities. This is of particular importance for the supervisory review pillar, where the Accord is less precise and prescriptive. Accordingly, and depending on the perspective, there is either a risk or a chance for national discretion …*

*In any case, the CSSF as well as its homologues across Europe and the World are compelled to take the necessary measures, as of now, to prepare themselves – i.e. their staff as well as their systems – to the implementation of the new framework. This encompasses not only the implementation of the framework on the national level, but also the adaptation of the "supervisor's" handbook, staff training and (not least) the recruitment of new staff.*

*Obviously, a great deal of change will also affect the banking industry that, like the supervisors, will, as of now, have to start taking the adequate measures for the implementation of the new rules. Firstly, management will need to make a strategic choice as to the approach they would like to apply for the calculation of their credit risk. Based on this choice, internal rating and management information systems will have to be prepared in order to meet the standards set by the New Accord.*

*Furthermore, banks will have to review their risk evaluation systems in light of the review that is going to be exercised by supervisors in accordance with the provisions of the second pillar. Following pillar 3, banks will also have to take the necessary steps to be in a position to produce the considerable amounts of information regarding their capital positions, their risks, their capital adequacy as well as their management systems.*

*Despite all these changes, I am of the firm belief that the positive effects clearly outweigh the negative aspects. Indeed, as banks will have the possibility to use their internal methodologies for the calculation of their capital requirements in relation to credit risk, the regulatory requirements will be in line with underlying risks. This will ultimately allow banks to manage their businesses more efficiently. The new rules are rewarding all those applying the internal risk based approach as they can benefit from lower risk weightings. In addition, in their assessment of counterparty risk, market participants will certainly differentiate between the banks applying internal risk based systems and those using the standardised and less risk sensitive methodology.*

*Banking supervision will certainly change both from the supervisor's and the supervised's standpoint. Considerable efforts will be required from both sides to tackle the challenges imposed by the New Accord. As the new rules attach much more importance to the quality of the organisations and the systems in the banks and less to the calculation of numbers, the communication channels between banks and supervisors will have to be further enhanced. »*

# Official lists

## LIST OF BANKS

List of credit institutions having registered on or withdrawn from the official list of credit institutions during the month of March 2001:

<u>Withdrawal</u>:

SEB Private Bank S.A. (6 March 2001)
6A, Circuit de la Foire Internationale
B.P. 487
L-2014 LUXEMBOURG

<u>Change of name</u>:

BfG Bank Luxembourg S.A. ,
has become
SEB Private Bank S.A.

Bikuben Girobank International S.A. ,
has become Dexia Nordic Private Bank Luxembourg S.A.

<u>New Address</u>:

Banco de la Pequeña y Mediana Empresa (Bankpyme), Barcelona (Spain)
Luxembourg branch
18, rue de l'Eau
L-1449 LUXEMBOURG

Joh. Berenberg, Gossler & Co – Berenberg Bank -, Hamburg (Germany)
Luxembourg branch
148-152, avenue de la Faïencerie
L-1511 LUXEMBOURG

SEB Private Bank S.A. (former BfG Bank Luxembourg) SA
6A, Circuit de la Foire Internationale
B.P. 487
L-2014 LUXEMBOURG

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

<u>Withdrawal:</u>

liquidation dated 08.03.01 of
RAYMOND JAMES BENELUX (LUXEMBOURG) S.A.
25, rue Notre-Dame
L-2240 Luxembourg
Status: commission agent

<u>New establishment:</u>

*<u>At 20.03.01:</u>*
BENELUX TRUST (LUXEMBOURG) S.A R.L.
12-14, rue Léon Thyes
L-2636 Luxembourg
Status: **Company domiciliation agent**

*<u>At 27.03.01:</u>*
FRONTIER S.A.
1A, rue du Nord
L-2229 Luxembourg
Status as **Distributor of units of investment funds not authorised to accept or effect payments**

<u>Change of status:</u>

*<u>At 14.03.01:</u>*
CARMIGNAC GESTION LUXEMBOURG S.A.

23, rue Aldringen
L-1118 Luxembourg
Status as **private portfolio manager and distributor of units of investment funds not authorised to accept or effect payments** extended to **professional acting on his own account and distributor of units of investment funds not authorised to accept or effect payments.**

LINDE PARTNERS ASSET MANAGEMENT S.A.
134, route d'Arlon
L-8008 Strassen
Status as **financial advisor** extended to **private portfolio manager and distributor of units of investment funds not authorised to accept or effect payments.**

## 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 February 2001**

During February, the following fifteen UCIs have been registered on the official list:

- H & A LUX SECTOR FUNDS; 21, avenue de la Liberté; L-1931 Luxembourg
- BALOISE FUNDINVEST (LUX); 39, allée Scheffer; L-2520 Luxembourg
- CARAVELA FUND; 11, rue Aldringen; L-1118 Luxembourg
- SEB INVEST BESTCHOICE; 6B, route de Trèves; L-2633 Senningerberg
- PROTEA FUND; 1, boulevard Royal; L-2449 Luxembourg
- C-QUADRAT EUROPEAN PRO - FUNDS; 11, rue Aldringen; L-1118 Luxembourg
- JRS BESTSELECT; 21, avenue de la Liberté; L-1931 Luxembourg
- TRAFINA INVESTMENT FUNDS; 14, boulevard Royal; L-2449 Luxembourg
- DWS ZLOTY RESERVE; 2, boulevard Konrad Adenauer; L-1115 Luxembourg
- H & A LUX PRONOBIS; 23, avenue de la Liberté; L-1931 Luxembourg
- RIM GLOBAL FUND; 21, avenue de la Liberté; L-1931 Luxembourg
- ARISTOLUX INVESTMENT FUND; 5, rue Jean Monnet; L-2180 Luxembourg-Kirchberg
- EUROTURK; 11, rue Aldringen; L-1118 Luxembourg
- PREMIUM SELECT FUND; 69, route d'Esch; L-1470 Luxembourg
- GLOBAL DIVERSIFIED SICAV; 1, place de Metz; L-1930 Luxembourg

The following twelve UCIs have been removed from the official list during February 2001 due to their liquidation:

- PUTNAM HIGH INCOME GNMA FUND S.A.; 11, rue Aldringen; L-1118 Luxembourg
- SICARO; 11, rue Aldringen; L-1118 Luxembourg
- EUROPROPERTY; 39, allée Scheffer; L-2520 Luxembourg
- AMERICA PLUS; 1A, rue Höhenhof; L-1736 Senningerberg
- PRIME SICAV; 1A, rue Höhenhof; L-1736 Senningerberg
- BTM GLOBAL PIONEER FUND; 287-289, route d'Arlon; L-1150 Luxembourg
- GLOBAL ART FUND; 4, rue Thomas Edison; L-1445 Luxembourg-Strassen
- BFG VIP FONDS; 6B, route de Trèves; L-2633 Senningerberg
- BPM FUND; 26a, boulevard Royal; L-2449 Luxembourg
- PROMAC; 4, rue Jean Monnet; L-2180 Luxembourg-Kirchberg
- GLOBAL MESSENGER EPOCA II; 10a, boulevard Royal; L-2449 Luxembourg
- LRI-ALFONS CORTES FONDS; 10-12, boulevard F-D Roosevelt; L-2450 Luxembourg

# Financial Centre

The main updated figures regarding the financial centre:

Number of banks: **197** (1 April 2001)

Balance sheet total: **EUR 665.32 billion** (28 February 2001)

Net profit: **EUR 2.578 billion** (31 December 2000)

Employment: **23,023 people** (31 December 2000)

Number of UCIs: **1,804** (28 February 2001)

Total net assets: **EUR 871.8 billion** (28 February 2001)

Number of PFS: **127** (28 February 2001)

Balance sheet total: **EUR 2.023 billion** (28 February 2001)

Employment: **3 499 people** (31 December 2000)

Total employment in the supervised establishments: **26,522 people** (31 December 2000)

**CSSF Newsletter**

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