

# CSSF NEWSLETTER

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

## *Domiciliation Agents*

### **“Domiciliation of companies“ Committee**

The CSSF has created a specific internal committee concerning the domiciliation of companies. Composed of representatives of the professions concerned, its mission is to assist the CSSF in the interpretation of the clauses of the law of 31 May 1999 governing domiciliation and to advise in the implementation of its prudential clauses. The committee brings together the following individuals :

Mr Gérard Becquer (PWC), Mrs Danielle Berna-Ost (CSSF), Mr Johan Dejans (BBL Trust Services), Mr Victor

Elvinger (lawyer), Mr Guy Harles (lawyer), Mr Jean-François Hein (CSSF-secretary), Mr Guy Hornick (Ordre des experts-comptables), Mr Charles Kieffer (CSSF), Mr Jean Lambert (V Trust Group), Mr Jean-Jacques Rommes (ABBL), Mr Jean-Nicolas Schaus (CSSF-President), Mr Carlo Schlessler (OEC), Mrs Christiane Schmit (Commissariat aux assurances), Mr Pierre Thielen (lawyer), Mr Marc Weitzel (CSSF) and Mr François Winandy (Fiduciaire Winandy & associés).

### **CSSF Circular 01/28 inviting the supervised establishments to start controlling their client companies domiciled in Luxembourg by a third party**

The circular, which is addressed to the credit institutions as well as to the other professionals of the financial sector, draws their attention to the obligation to verify, when establishing a client relationship with a company, if the latter is domiciled in Luxembourg by a third party and if this is the case, with whom.

The supervised establishments must provide the CSSF, before 30 September 2001, with a list of client companies that are domiciled in Luxembourg through people who are not authorised by law to exercise that activity.

### **CSSF Circular 01/29 regarding the minimum content of a domiciliation of companies agreement**

The purpose of the circular is to detail the points which must be covered by a domiciliation agreement. The circular is applicable to all the financial institutions

under the CSSF's supervision and expressly engages the responsibility of a member of the management. The circular lists the following points which

must feature in a domiciliation agreement :

- the purpose of the contract,
- the rights and obligations of the domiciliation agent,
- the responsibility of the domiciliation agent,
- the rights and obligations of the company,

- the instructions and means of communication between the contracting parties,
- commissions,
- the duration and cancellation of the contract,
- the applicable law and the settlement of conflicts.

## Statistics

### *Undertakings for collective investment*

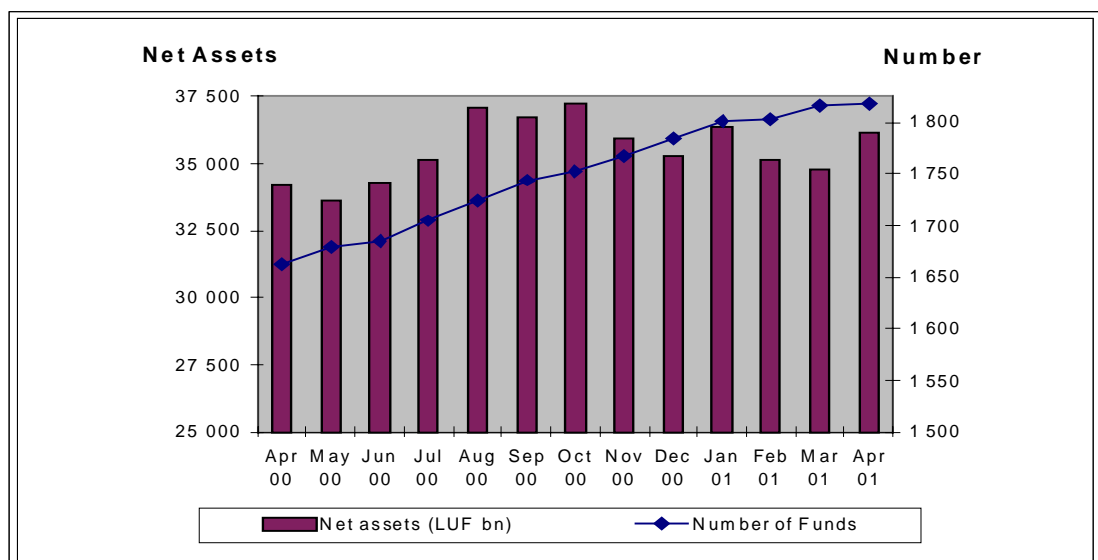
#### **Increase of 3.84% in the UCIs' total net assets at the end of April 2001 (communicated to the press on 30 April 2001)**

The total net assets for undertakings for collective investment amounted to EUR 895.8 billion (LUF 36,138.3 billion) as at 30 April 2001 compared to EUR 862.7 billion (LUF 34,801.2 billion) as at 31 March 2001. As a result the Luxembourg undertakings for collective investment sector has increased by 3.84% compared to the month of March 2001. This increase can be explained by an overall rise in the financial markets.

The sector is witnessing an increase of 2.43% compared to 31 December 2000, where the total net assets amounted to EUR 874.6 billion (LUF 35,280.7 billion). Over the period of the last

twelve months, the volume of net assets has increased by 5.54%.

During the month of April 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 10.7 billion (LUF 430.8 billion). The number of undertakings for collective investment taken into consideration totals 1,819 compared to 1,816 for the previous month. 1,066 UCIs have adopted the multiple compartment structure, which represents a total of 6,474 compartments. When adding 753 UCIs with a traditional structure to the previous figure, a total of 7,227 compartments are active in the financial centre.



## ***Credit Institutions***

### **A slight decrease in the banks' balance sheet total set at EUR 667.65 billion**

The balance sheet total for the banks established in Luxembourg reached EUR 667.65 billion (LUF 27,128 billion) as at 30 April 2001 compared to EUR 672.48 billion (LUF 26,933 billion) as at 31 March 2001, which is a slight decrease of 0.7%.

As at 1 June 2001, the number of credit institutions registered on the official list of banks added up to 198, which is an increase of one unit compared to the previous month, due to the opening of Bank CORLUY, Luxembourg branch, on 10 May 2001.

## ***PFS***

### **Balance sheet total of EUR 1.942 billion on the decline by 1.3%**

According to the data provided as at 30 April 2001, the balance sheet total of all the professionals of the financial sector (130 businesses active in total) adds up to EUR 1.942 billion compared to EUR 1.968 billion the previous month, which is a reduction of 1.29%.

The provisional net profit over the first four months of the year for all the PFS amounts to EUR 179 million.

### **Distribution of the other professionals of the financial sector according to their status (as at 31 May 2001)**

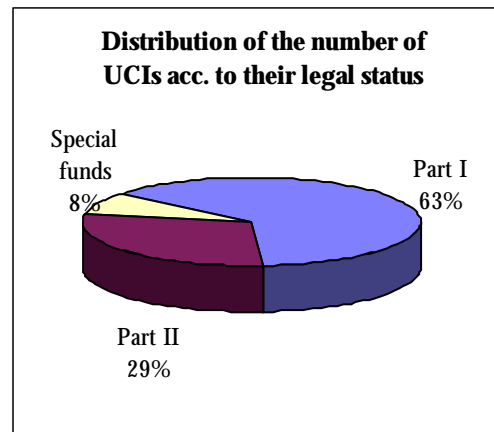
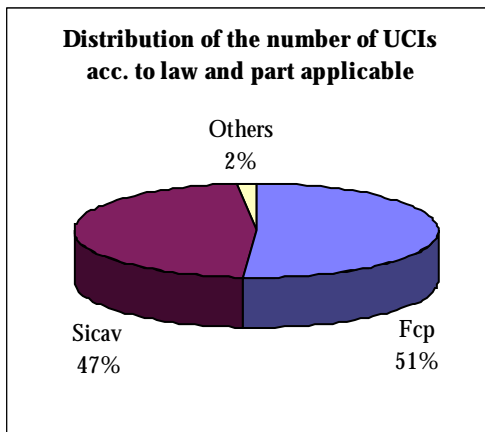
<b>Category</b>	<b>Number</b>
Commission agents	11
Financial advisors	9
Brokers	7
Professional custodians of securities or other financial instruments	4
Distributors of units of investment funds	42
Domiciliation agents of companies	24
Private portfolio managers	50
Underwriters	4
Professionals acting for their own account	16
Market makers	2
<b>TOTAL *)</b>	<b>132</b>

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

## Quarterly statistics on the undertakings for collective investment industry (situation as at 31 March 2001)

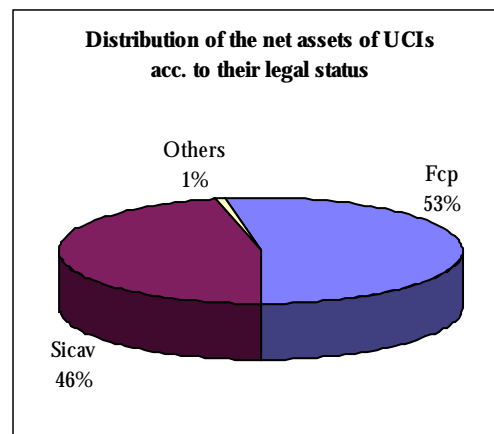
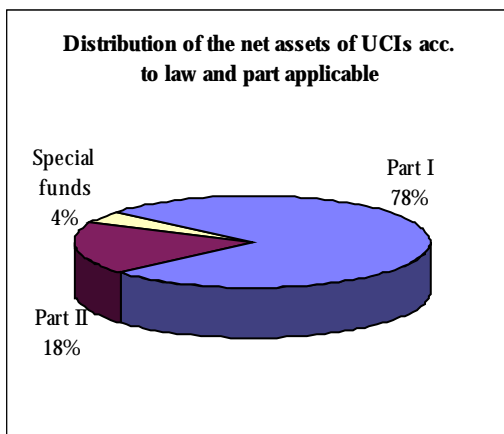
Every three months, in addition to the monthly statistics, the CSSF newsletter will provide more detailed information on the

investment fund sector, in particular regarding the origin of the promoters and the investment policy of the UCIs.



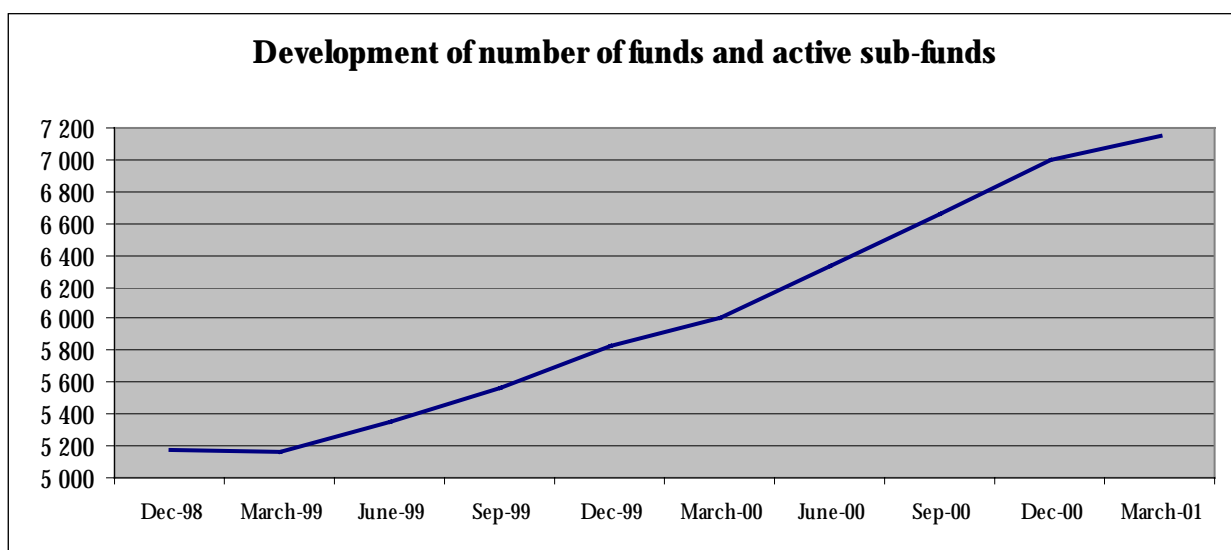
### Number of UCIs

	Fcp	Sicav	Others	Total
Part I	591	541	8	1 140
Part II	244	261	20	525
Special funds	93	56	2	151
<b>Total</b>	<b>928</b>	<b>858</b>	<b>30</b>	<b>1 816</b>



## Net assets of the UCIs (in bn EUR)

	Fcp	Sicav	Others	Total
Part I	317.020	348.108	2.012	667.140
Part II	112.415	39.620	5.314	157.349
Special funds	25.769	12.209	0.232	38.210
Total	455.204	399.937	7.558	862.699

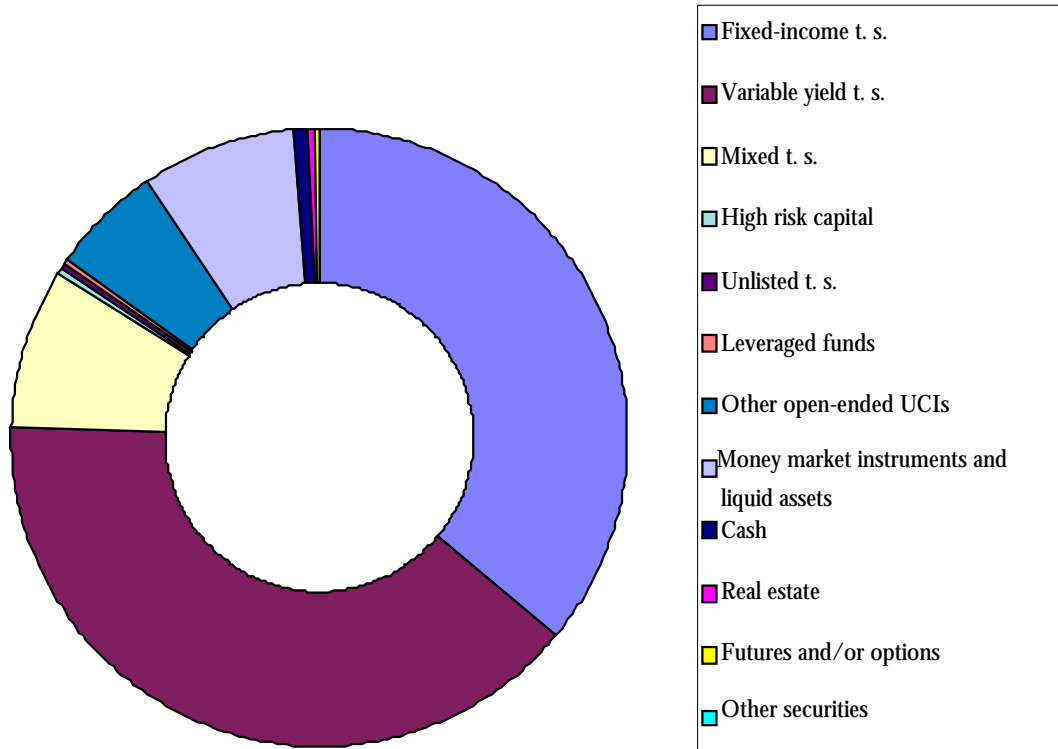


	Dec-98	March-99	June-99	Sep-99	Dec-99	March-00	June-00	Sep-00	Dec-00	March-01
Number of active funds and sub-funds	5,178	5,158	5,351	5,570	5,836	6,004	6,338	6,654	6,995	7,147

## Origin of the promoters of the Luxembourg UCIs

March-01	Net assets	in %
Switzerland	220.4	25.5%
Germany	145.6	16.9%
United States	139.0	16.1%
Italy	91.2	10.6%
Belgium	77.1	8.9%
United Kingdom	54.4	6.3%
France	47.5	5.5%
Japan	21.9	2.5%
Sweden	17.9	2.1%
The Netherlands	17.8	2.1%
Others	29.9	3.5%
Total	862.7	100.0%

## Investment policy of the UCIs



Investment policy of the UCIs	Net assets (in bn EUR)
Fixed-income transferable securities	311.5
Variable yield transferable securities	341.0
Mixed transferable securities	72.1
High risk capital	0.4
Unlisted transferable securities	2.7
Leveraged funds	2.6
Other open-ended UCIs	52.1
Money market instruments and liquid assets	68.1
Cash	7.3
Real estate	3.4
Futures and/or options	1.5
Other securities	0.0
<b>Total</b>	<b>551.2</b>

## Legislative and regulatory developments in the financial sector that occurred during the month

### *European legislative and regulatory framework*

#### **Establishment of a Committee for transferable securities and a Committee of European Securities Regulators**

Following the conclusions drawn at the Stockholm summit and in accordance with the recommendations of the final report of the Committee of Wise Men on the regulation of the European market for transferrable securities, presided by Mr Alexandre Lamfalussy, the European Commission has established two Committees on 5 June, which must contribute to the implementation of regulation reforms of the European financial markets.

Comprised of senior representatives of the member States, the European Securities Committee (ESC) will advise the Commission on those issues relating to transferable securities in view of the adoption of the directive's proposals or the regulation by co-decision. Once its regulatory competence has been covered by legislation, it will function like a regulatory committee.

Comprised of representatives of national public authorities, the Committee of European Securities Regulators (CESR) will be an independent advisory entity and will advise the Commission on technical details of securities legislation. It will contribute to reinforcing co-operation between controlling authorities and its President will assist the ESC meetings as an observer.

The Committee of European Securities Regulators (CESR) will take over from FESCO (Forum of European Securities Commission) which had been established in December 1997. During their last meeting in London, the Presidents of the FESCO member authorities adopted a Charter regulating the functioning of the new committee called on to succeed it.

#### **Agreement of the Council of ministers and of the European Parliament on the directive on Takeover Bids**

The Council of ministers and the European Parliament as co-legislators reached an agreement on Wednesday 5 June in Luxembourg during the mediation procedure on the directive on takeover bids. The stumbling block concerned the neutrality obligation of the board of directors of a company being subjected to a takeover bid. The agreement reached must however be

ratified by the qualified majority of the Council of ministers and by simple majority by the European Parliament.

In general, the directive leads to a minimum harmonisation of the voluntary and compulsory takeover bid regime relating to companies listed on regulated markets in line with the directive on investment services. It sets

the general principles from which the member States cannot depart, fixes rules on the functioning of the takeover bid or exchange and lists the areas in which the member States have to adopt rules.

A period of five years has been foreseen by the directive for the member States to implement the clauses.

### ***Other working documents***

#### **FESCO publishes two working documents subject to a second review**

FESCO (Forum of European Securities Commissions) whose purpose is to contribute to the creation of a single European market in financial services has just published two documents subject to a second review.

The first document aimed at enacting common norms is entitled “Standards for alternative trading systems”. The second finalised document is called “Standards for stabilisation and allotment”.

These two documents are destined to be integrated by the members of FESCO in their supervision objectives and if possible, in their national regulation. Those interested can consult the respective documents on the new FESCO website at the following address:

[www.eurofefesco.org](http://www.eurofefesco.org)



#### **Meeting in Luxembourg of two working groups of the Basle Committee on the banking control**

During the month of May, the CSSF welcomed two working groups of the Basle Committee on the banking control. The agenda of the *Transparency Group* meeting, on 9 and 10 May featured:

- *streamlining* the third pillar of the new Basle agreement;
- the preparation of the annual inquiry with the aim of comparing the banks' common practices in terms of the information publication as a result of the recommendations elaborated by the Basle Committee in this regard.

The *Task Force on Accounting Issues*, which met on 16 and 17 May dealt with :

- the updating of the “ Sound Practices for the Loan Accounting and Disclosure “ document in light of the recent developments in terms of provision techniques
- the *Fair Value Accounting*
- the finalisation of the recommendations which the Basle Committee proposes to publish regarding the organisation and the functioning of the banks' internal audit.



In addition the group met Mr Thomas Jones, the Vice-President of IASB ("International Accounting Standards

Board") to discuss the latest developments at IASB level.

## Conference

### ISMA Conference : Harmonisation of the European financial markets

During the annual ISMA "International Securities Market Association" conference held in Luxembourg on 7 and 8 June, Mr Jean-Nicolas SCHAUS, Directeur général of the CSSF, dealt with the regulation of the financial markets in Europe. This subject is of great importance in terms of the creation of a common market for financial services.

*« ... the EC Commission's Financial Services Action Plan sets out an ambitious working programme to be achieved by 2005. The Committee of Wise Men is even more ambitious as it advances the timetable to 2004. The list of envisaged regulatory actions is long covering among others, an update of the ISD, a harmonisation of conduct of business rules, the granting of the European passport to issuers, the definition of European-wide accepted international accounting standards, the possible regulation of ECNs and clearing and settlement systems. Given the length of the list, it is necessary, in my view, to define priorities. I think the most urgent issue to be addressed is to make the principle of mutual recognition work in the financial sector so that investors and financial institutions can fully benefit from the Internal Market.*

*From experience I can tell you that the European passport for financial institutions is, in some instances, more fiction than reality. The most formidable obstacle to the cross-border provision of financial services appears indeed to be the provision of general good. The national rules imposed by host countries on the grounds of general good, and in particular on investor protection, must satisfy the test defined by the European Court of Justice (proportionality,*

*non-harmonised area, not regulated in the home country, ...). In practice, the rules imposed by host countries are rarely challenged in court so that host countries continue their sometimes-abusive practice. As a consequence, financial institutions refrain from offering their services on a cross-border basis, leaving investors with a restricted choice of financial services.*

*The implementation of the principle of mutual recognition can only partially be dealt with through further harmonisation. Indeed, the EC Commission and financial institutions have a major role to play in this area by taking a more proactive stance. Bringing the most abusive cases to court might set an example and give incentives to Member States to review their current regulatory practices.*

*If we look at the regulatory side, it might be worthwhile considering the harmonisation of investor protection rules and the main characteristics of some basic consumer financial services, such as consumer credits and mortgage loans. The objective of a harmonisation of the rules deemed essential, necessary and sufficient to offer an appropriate protection to retail investors is to prevent host countries from imposing their national rules to in-coming service providers. The directives should be based on the principle of maximum harmonisation. What this means is that neither the home nor the host Member State is authorised to impose stricter rules than those laid down in Community legislation. The concept of maximum harmonisation could significantly contribute to the rapid integration of European financial retail markets, provided that it were supported by Member States. I am, however, less than convinced that the regulatory route is a promising one.*

*... This brings me to the crux of what I wanted to say today: the integration of financial markets in Europe is not just a matter of regulation and speeding-up of legislative procedures. It also has, to a large extent, to do with mutual recognition, that is to say mutual trust among Member States. Mutual trust among Member States can be reinforced through enhanced co-operation between national*

*supervisors. A continuous dialogue between regulators and the regulated institutions is also a prerequisite to integrated European financial markets.*

*If all the parties concerned work together in a constructive manner and are willing to trust each other, I do believe that we can achieve the integration of financial markets and reap the huge economic benefits associated with it. »*

# 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 May 2001.

### New establishment :

Banque Corluy, Anvers (Belgique)  
Luxembourg branch  
283, route d'Arlon  
L-8011 STRASSEN

L-5365 MUNSBACH  
Postal address : B.P. 836,  
L-2018 LUXEMBOURG

Conrad Hinrich Donner Bank, Hamburg  
(Germany)

Luxembourg branch  
18, boulevard de la Foire  
L-1528 LUXEMBOURG  
Postal address : B.P. 395,  
L-2013 LUXEMBOURG

### Withdrawal :

None

### Change of name :

Banque MeRich S.A. to Bank2 C

Mizuho Trust & Banking (Luxembourg)  
S.A.

1B, Parc d'Activité Syrdall  
L-5365 MUNSBACH  
Postal address : B.P. 29,  
L-2010 LUXEMBOURG

### Change of address :

Chekiang First Bank (Luxembourg) S.A.  
1B, Parc d'Activité Syrdall

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

### Withdrawal:

none

Crédit Agricole Indosuez Conseil having  
the status of **commission and  
domiciliation agent of companies.**

### New establishments :

AIG Asset Management International  
(Europe) S.A. having the status of  
**distributor of units of investment  
funds without accepting nor effecting  
payments**

constituted on 7 May 2001 (authorised on  
6 December 2000)

Ministerial authorisation of 10 May 2001

## 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 April 2001** :

### Registrations

ALAMCO GLOBAL FUND, 6, rue Jean Monnet, L-2180 Luxembourg-Kirchberg

CAPITAL INTERNATIONAL NIPPON FUND, 33, boulevard du Prince Henri, L-1724 Luxembourg

CLEVERSELECT, 14, allée Marconi, L-2120 Luxembourg

CS ADVANTAGE (LUX), 5, rue Jean Monnet, L-2180 Luxembourg-Kirchberg

DRESDNER VERMÖGENSPLAN 10, 6A, route de Trèves, L-2633 Senningerberg

DRESDNER VERMÖGENSPLAN 25, 6A, route de Trèves, L-2633 Senningerberg

DRESDNER VERMÖGENSPLAN 40, 6A, route de Trèves, L-2633 Senningerberg

DRESDNER VERMÖGENSPLAN 65, 6A, route de Trèves, L-2633 Senningerberg

DRESDNER VERMÖGENSPLAN 85, 6A, route de Trèves, L-2633 Senningerberg

FLOREAL FUND, 6, rue Jean Monnet, L-2180 Luxembourg-Kirchberg

GAMAX FUND OF FUNDS, 47, boulevard Royal, L-2449 Luxembourg

H & A LUX RAPTOR I, 21, avenue de la Liberté, L-1931 Luxembourg

IDEA MULTIMANAGER SICAV, 291, route d'Arlon, L-1150 Luxembourg

M & W INVEST, 10-12, boulevard F-D Roosevelt, L-2450 Luxembourg

MULTI-CONCEPT, 5, rue Jean Monnet, L-2180 Luxembourg-Kirchberg

LOUDHEUSDEN CRYSTAL FUND SICAV, 52, route d'Esch, L-1470 Luxembourg

PLUTOS INTERNATIONAL FUND, 1a-1b, rue Thomas Edison, L-1445 Luxembourg-Strassen

PRUDENTIAL INTERNATIONAL FUNDS, 69, route d'Esch, L-1470 Luxembourg

RENTEN STRATEGIE 1, 4, rue Jean Monnet, L-2180 Luxembourg-Kirchberg

TETI INTERNATIONAL FUND, 39, allée Scheffer, L-2520 Luxembourg

TRUST FUND INSTITUTIONAL, 4, boulevard Royal, L-2449 Luxembourg

### Withdrawals

BANQUE WORMS MANAGEMENT COMMODITIES FUND, 39, allée Scheffer, L-2520 Luxembourg

BNP GUARANTEED, 5, rue Jean Monnet, L-2180 Luxembourg-Kirchberg

BRAZILIAN INVESTMENT COMPANY, 33, boulevard du Prince Henri, L-1724 Luxembourg

CDC MBS PLUS SERIES, 39, allée Scheffer, L-2520 Luxembourg

GLOBAL BOND FUND, 69, route d'Esch, L-1470 Luxembourg

INDOCAM ASIAN GROWTH FUND, 39, allée Scheffer, L-2520 Luxembourg

INDOCAM MOSAiS, 39, allée Scheffer, L-2520 Luxembourg

INDOSUEZ HIGH YIELD BOND FUND, 39, allée Scheffer, L-2520 Luxembourg

INTERNATIONAL CONVERTIBLE GROWTH FUND, 11, rue Aldringen, L-1118 Luxembourg

INVESCO EURO-STABIL BOND, 14, boulevard Royal, L-2449 Luxembourg

LATIN AMERICAN INVESTMENT COMPANY, 33, boulevard du Prince Henri, L-1724 Luxembourg

LONDON CAPITAL RESIDENTIAL PROPERTY FUND, 50, avenue J-F Kennedy, L-1855 Luxembourg-Kirchberg

MEXICAN INVESTMENT COMPANY, 33, boulevard du Prince Henri, L-1724 Luxembourg

PROTECTION II, 6, rue Jean Monnet, L-2180 Luxembourg-Kirchberg

STANDARD CHARTERED INVESTMENT FUND, 34, avenue de la Liberté, L-1930 Luxembourg

THE FIRST KOREA SMALLER COMPANIES FUND, 13, rue Goethe, L-1637 Luxembourg

VALORIVE, 69, route d'Esch, L-1470 Luxembourg

VIENNA INTERNATIONAL, 11, rue Aldringen, L-1118 Luxembourg

# Financial Centre

The main up-dated figures regarding the financial centre :

Number of banks : **198** (31 May 2001)

Balance sheet total : **EUR 667.65 billion** (30 April 2001)

Net profit : **EUR 1.204 billion** (31 March 2001)

Employment : **23,538 people** (31 March 2001)

Number of UCIs : **1,819** (30 April 2001)

Total net assets : **EUR 895.8 billion** (30 April 2001)

Number of PFS : **132** (31 May 2001)

Balance sheet total : **EUR 1.942 billion** (30 April 2001)

Employment : **3,627 people** (31 March 2001)

Total employment in the supervised establishments: **27,165 people** (31 March 2001)

## **CSSF Newsletter**

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