

Implementation of the MiFiD in Luxembourg

Currently, the Luxembourg legislation is in the process of transposing the EU's directive 2004/39/EC, the MiFiD (Markets in Financial Instruments Directive). The current draft Luxembourg law number 5627 modifies the Luxembourg law dated 5 April 1993, as amended, concerning the financial sector, which defines the notion of the professional of the financial sector (the "PFS"). The new law shall, according to the European provisions, come into force in November 2007.

The principal modifications stipulated in the draft law regarding the outsourcing of financial activities are the following ones:

1. Two provider categories and initial capital:

The support PFS will obtain some more freedom and will seek to start up easier due to a substantial cut in the amount of the initial capital.

- Article 29-3 will for the future only be applicable to the "**primary IT system operations on the financial sector**" (this concerns PFS which are in charge of the functioning of information systems permitting the establishment of accountancy and of financial situation). Those providers shall have an initial capital of at least

370.000 EUR (instead of actually 1.500.000 EUR) and would also be able to carry out the activities stipulated in the new Article 29-4 (please see below);

- a new Article 29-4 will apply to "**secondary IT system operations and financial sector communication networks**" (this concerns those PFS which are in charge of IT systems not being covered by the systems mentioned in the new Article 29-3 as for instance data processing, the transfer of stored data or the exploitation and applications to technical support and maintenance services). The said providers will have to possess of an initial capital of at least 50.000 EUR.

2. The PFS will no longer have to provide their services exclusively to companies of the financial sector.

3. Besides, in a more general way

Principles of the PFS's internal governance (including those concerning the professional qualification of the managers) and the purposes for which the PFS's capital may be used are precised.

A new trade association of support PFS has been founded, dedicated to improve the efficiency of each support PFS and represented by an executive committee composed by managers of Luxembourg support PFSs.

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The tasks of the trade association will among others consist in formalizing the communication between the PFS and the government or the CSSF, and defend their members' interest vis-à-vis policy makers. At the same time, the association will be a platform to inform its members about new evolutions in the financial sector and for an exchange of experiences between the members.

Contacts

Katia Scheidecker

Partner
 T: +352 26 48 42 35 09
scheidecker@mnks.com

Gary Cywie

Senior Manager
 T: +352 26 48 42 35 31
cywie@mnks.com

Noble & Scheidecker

398, route d'Esch
 L-1471 Luxembourg
 T: +352 26 48 42 1
 F: +352 26 48 42 35 00
www.mnks.com