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Newsflash

Unregulated Alternative Investment Funds reaching Luxembourg

A bill has been approved on November 27, 2015 by the Luxembourg government for the purpose of creating a new type of alternative investment fund in Luxembourg: the reserved alternative investment fund (**RAIF**). The text of the bill is to be published shortly.

The RAIF is largely modelled on the specialised investment fund (SIF) regulated under the law of February 13, 2007 on SIFs, as amended, and dedicated to well-informed investors.

The RAIF is however not subject to the approval and/or supervision of the Luxembourg regulatory authority while benefitting from the structuring flexibility also benefitting to the other types of Luxembourg investment funds and Société d'investissement à capital à risque (SICAR), as pointed out by the Luxembourg Government.

It is worthwhile noting that the RAIF should be able to adopt any fund strategy, invest in any asset type and, under certain conditions, not be required to diversify its portfolio of assets.

The lower level of protection implied by the absence of supervision is compensated by the fact that the RAIF must be managed by an authorised alternative investment fund manager (**AIFM**).

Such AIFM will ensure that the RAIF complies with the applicable requirements of the AIFM directive as transposed into Luxembourg law and allow the RAIF to potentially benefit from the AIFM passport.

In addition, the RAIF should be applied an efficient tax regime: Its tax treatment by default is SIF alike (a 0.01% p.a. subscription tax and no withholding tax on distributions) with the possibility to benefit, alternatively, from the SICAR tax regime when dedicated exclusively to investments in risk capital.

The Luxembourg Government's initiative is very welcome and the RAIF will certainly bring an additional competitive advantage to Luxembourg compared to other jurisdictions onshore and/or offshore.