

Draft Law 7349 “ concerning ELTIF, EuVECA and EuSEF and amending the RAIF Law



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Draft Law No. 7349 was adopted by the Luxembourg Parliament on 11 July 2019 (the “Law”) and implements into domestic law certain provisions of the following regulations:

- Regulation (EU) N°345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds (“EuVECA Regulation”);
- Regulation (EU) N°346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds (“EuSEF Regulation”);
- Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European Long-term Investment Funds (“ELTIF Regulation”);
- Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds (“MMF Regulation”);
- Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisations (“Securitisation Regulation”)

The Law explicitly designates the CSSF as the competent authority in respect of the EuVECA, EuSEF, ELTIF and MMF Regulations and sets out the powers of the CSSF and the administrative sanctions that may be applied by the CSSF pursuant to such regulations.

The CSSF is also generally designated as the competent authority pursuant to the Securitisation Regulation provided that the Commissariat aux Assurances is the competent authority for ensuring respect of the obligations laid out in articles 6 (risk retention) and 9 (criteria for credit-granting) of the Securitisation Regulation by sponsors, originators and securitisation special purpose entities.

The Law amends articles 12-3 and 12-5 of the law of April 5, 1993 on the financial sector in order to correct material mistakes and for a better understanding of the law.

Finally Law amends the law of July 23, 2016 relating to reserved alternative investment funds (the “RAIF Law”). Article 8 is amended to provide that fonds commun de placement (FCPs) may be managed by Luxembourg management companies authorised pursuant to chapters 15, 16 or 18 of the law of 17 December 2010 relating to undertakings for collective investment (“2010 Law”). The previous wording of the RAIF Law did not allow for management companies fully authorised pursuant to chapter 15 of the 2010 Law to manage FCPs taking the form of reserved alternative investment funds.

The Law also amends article 49 of the RAIF Law to allow for the transformation of FCP RAIFs into SICAV RAIFs.