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UCITS

UNDERTAKING FOR COLLECTIVE INVESTMENT IN TRANSFERABLE SECURITIES

DEFINITION

An Undertaking for Collective Investment in Transferable Securities (« UCITS ») is a regulated, operationally flexible and fiscally efficient multipurpose investment fund regime for a retail investor base.

LEGAL FRAMEWORK

UCITS are governed by several laws and circulars :

- Law of 17 december 2010 ;
- CSSF Circular 07/309 on risk diversification
- CSSF Circular 07/308 on risk management
- La circulaire CSSF 11/498 et le règlement CSSF n° 10-4 transposant les guidelines émises par la CESR au niveau européen.
- CSSF regulation N°10-4 and the CSSF circular 11-498 transposing the CESR guidelines.

OBJECTIVE

For at least two reasons, UCITS are very interesting investment vehicles. On the one hand, it is a structured investment product (as it is not limited to some categories only). On the other hand, it provides investment diversification and secures investors.

LEGAL FORM

UCITS may be structured as :

- Common Contractual Fund (*Fonds commun de placement – FCP*);
- Investment company with fixed capital (SICAF- *société d'investissement à capital fixe*) ;
- Investment company with variable capital (SICAV- *société d'investissement à capital variable*);

A SICAV/SICAF can choose one of the following legal forms :

- S.A. ;
- S.à.R.L. ;
- S.C.A. ;
- S.C.o.S.A..

A UCITS may be set up as an umbrella structure with multiple compartments.

CAPITAL

If SICAV/SICAF legal form is chosen, minimum capital requirement is of € 300,000 on day of approval by the CSSF and €1,250,000 to be reached within twelve months of said approval.

UCITS MANAGEMENT

A UCITS must have its registered office and central administration in Luxembourg, which is usually provided by specialized domiciliation agents.

The central administrative agent must be a financial sector professional (PSF) and thus hold a professional license pursuant to the 1993 Banking Law. Furthermore, any UCITS as such is subject to authorization and continuing supervision by the CSSF.

INVESTMENT PROTECTION

Investment protection is guaranteed by several rules and measures. The most important of them are :

- Diversification requirement embodied in the so-called « 5/10/40 » rule ;
- Limiting the fund's investments in another fund;
- Approval and ongoing monitoring of the structure by the CSSF.

TAXATION

Similarly to the ELTIF, the UCITS benefits from a favorable tax regime : no income tax, no wealth tax and no withholding tax.