

# LINARI LAW FIRM

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### **YOUR LEGAL EXPERT IN**

INVESTMENT FUNDS – CAPITAL MARKET – PRIVATE EQUITY – M&A  
SECURITISATION – BANKING & FINANCE – REGULATED ENTITIES – LITIGATION



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## Non-professional well-informed Investors to be excluded from SIF investing in hard assets

*The Luxembourg bill n°6936 relating to the modification of the SIF, SICAR, UCI and AIFM laws has been deposited with the Luxembourg Parliament and will preclude non-professional investors from participating to funds investing in hard assets.*

The main purpose of this bill is to revise the scope of the amended law of 13 February 2007 relating to specialised investment funds (“SIF”) and to amend certain provisions of the amended law of 15 January 2004 relating to investment companies in risk capital (“SICAR”), the amended law of 17 December 2010 relating to undertakings for collective investment (“UCI”) and the amended law of 12 July 2013 relating to alternative investment fund managers (“AIFM”).

It shall be noted that SIF are investment schemes allowed to invest in hard assets (the “Targeted Funds”). As a result, the passing years have seen the number of SIF investing in assets such as wine, diamonds, insurance contracts, economic rights of football players, artworks or animals, increase substantially. Currently access to such SIF is limited to well-informed investors.

Investments in such Targeted Funds are often illiquid and may be further encumbered by substantial risks. In the interest of investor protection, the bill proposes to reserve the investment into Targeted Funds to professional investors within the meaning of the annex II of Directive 2014/65/EU on markets in financial instruments (MIFID II), being expected to have the experience, knowledge and skills needed to properly assess the risks involved.

To achieve such aim, the legal system will remain unchanged for SIF who limit their access to professional investors. However when it comes to the Targeted Funds that are available to other well-informed investors, then the CSSF shall be authorized to determine, by way of CSSF regulation, the types of assets in which those funds can invest.

In addition, such bill will also amend the status of SICAR so as to bring it more in line with the status of the SIF. SICAR will now have to be approved before their launch.

The bill will also amend the status of part II UCI so as to allow them to issue shares at a price different from their NAV and to allow the CSSF to determine, by way of CSSF regulation, the types of assets in which those funds can invest.

It shall be noted that well informed investors who are not professional investors will be able to invest in hard assets through the new Luxembourg reserved alternative investment funds or RAIF (please refer to our previous newsletter pertaining to the future RAIF regime).

## DEFINITION

### Well-informed investor

An institutional investor, a professional investor as well as any other investor that has declared in writing his/her adhesion to the status of well-informed investor, and

- (i) invests a minimum of EUR 125,000 in the specialised investment fund, or
- (ii) has obtained a statement from a credit institution within the meaning of Directive 2006/48/EC,

from an investment firm within the meaning of Directive 2004/39/EC or from a management company within the meaning of Directive 2009/65/EC testifying to his expertise, his experience and his knowledge to appraise in an appropriate manner an investment in the specialised investment fund.