LINARI LAW FIRM

AVOCATS A LA COUR

YOUR LEGAL EXPERT IN

INVESTMENT FUNDS – CAPITAL MARKET – PRIVATE EQUITY – M&A

SECURITISATION – BANKING & FINANCE – REGULATED ENTITIES – LITIGATION

252 avenue Gaston Diderich
L-1420 Luxembourg
GRAND-DUCHY OF LUXEMBOURG

Phone : +352 27 11 60 10
Fax : +352 27 11 60 09
Email : info@linari-law.lu
Web : www.linari-law.lu

Newsletter - RAIF

We kindly remind you that on November 27, 2015 a bill of Law (the “Bill”) relating to reserved alternative investment funds (hereafter “RAIF”) was approved by the Luxembourg government and transmitted to the Luxembourg parliamentary chamber for enactment. Such Bill was drafted with a view to the creation in Luxembourg of a new type of alternative investment fund (”AIF”). It was expected to enter into full force during Q2 of 2016 (please refer to our newsletter sent on December 9, 2015).

The Bill was born out of a concern from the industry with regards to the double regulation supported by some Luxembourg alternative investments funds (SIF or SICAR for example) which, if not self-managed, are regulated at the level of the their AIFM and at their own level. The drafters of the Bill noted that this dual regime of approval and supervision does not exist (i) when AIFs are established outside Luxembourg or (ii) when AIFs are created as Luxembourg legal corporate entities not subject to approval and supervision of the CSSF (SOPARFI).

Recently, the Bill received the comments from the Luxembourg *Conseil d’Etat* which raised several objections. The objections raised are technical in scope – as the purpose of such piece of legislation has been acknowledged as valid by the *Conseil d’Etat* - and notably deal with:

- necessity of the prior modification of various Luxembourg statutes including the law of 5 April 1993 on the financial sector, as amended, and the law of 13 February 2007 relating to specialized investment funds, as amended, prior to the adoption of the Bill;
- determination of the conditions necessary for the application of certain tax exemptions for the RAIF based on its legal form and the nature of its investments;
- various cosmetic changes.

As a consequence, the Bill appears to be still on track for an adoption at the end of Q2, beginning of Q3 2016 (July as indicated in the legislator’s assessments) provided that the prior legislative legwork referred to hereabove under first indent is done in a timely fashion.