

Luxembourg Fund Services

IN FOCUS 2020

   

PRIVATE EQUITY

A safe harbour for growth

INVESTMENT OUTLOOK

Macro turmoil provides
opportunity

ESG INVESTING

PE firms incorporating the
approach

Featuring ALFI | Alter Domus | Arendt | GSK Stockmann | LPEA | Maples Group | One Ten Associates | RFA | TMF Group

A growth outlook in a new reality

Q&A with Marcus Peter & Irina Stolarova

What are the key trends currently driving growth and development within Luxembourg's funds industry?

In 2019 Luxembourg fund industry revealed significant growth that was not slowed down in the first three quarters of 2020. As at 31 August 2020, the total assets under management (AUM) amounted to EUR4,696.762 billion compared to EUR4,617.395 billion as at 31 July 2020, showing an increase of 1.72 per cent over one month and over the last twelve months, the volume of net assets rose by 4.31 per cent.

Regardless of the fact that asset managers, investment advisers and other market participants faced some difficulties due to Covid-19 pandemic, we observed, however, that 2020 is quite a successful year. This is because 2020 showed not only continuing growth in terms of AUM but also pertaining to the set-up of new investment vehicles. Also, the Covid-19 pandemic situation did not force many investment funds to suspend redemption request hereby showing robust and secured liquidity management within the investment funds. Since the Brexit referendum Luxembourg attracted increasing interest from UK based asset managers or asset managers planning to centralise their future cross-border activities via Luxembourg in the post Brexit era. Due to its competitive and professional environment, more than 60 financial institutions selected the Grand Duchy of Luxembourg as their post-Brexit gateway to the EU single market in the last two years.

One of the new key trends driving growth and development in Luxembourg fund industry is sustainable finance. Due to Luxembourg Green Stock Exchange that doubled its green, social, suitability and ESG (Environmental, Social and Governance) securities over the last year and the Luxembourg Finance Labelling Agency (LuxFLAG) that grew considerably over the last year, continuing to label sustainable products across seven jurisdictions, Luxembourg continues to be the place of interest for various fund initiators as well as investors across the globe. Along with those market players, the Luxembourg government plays an important role in developing sustainable finance area. Implementation of new disclosure regulations added substantial burden on a short term perspective, however, in our opinion, will create a strong impact for bringing the Luxembourg investment fund market to the next level as green financial centre in the mid-term and long-term future.

Fintech is another key trend that drives the growth of Luxembourg economy and will continue to develop over the years bringing new business opportunities to the country.

How are these trends impacting your organisation's objectives?

We, as fast growing law firm, are adapting and growing along with new technologies, developing our expertise in sustainable finance area, in particular, with a specific focus on ESG and sustainable funds while also observing closely the other regulatory developments in the market that impact asset management, such as imminent amendment of the AIFMD and other regulatory changes.

Can you outline the primary challenges your clients in Luxembourg are facing at the moment and how your services are helping them overcome these difficulties?

Next to the permanent challenge of creating compliance with new regulation, the main challenges our clients are facing now are the assets valuation, especially illiquid assets, such as real estate assets. Depending on where the respective assets are located, impact on valuations can be tremendous or not to be impacted at all. Certain debt funds due to the nature of assets are facing problems due to contractual or government-ordered suspension of payments and debtors not being able to pay due to the Covid-19 impact that inevitably impacts valuations of assets and liquidity situation at the fund level.

In order to provide more certainty to the clients and given the current market circumstances, we are closely monitoring all regulatory changes due to Covid-19 (and other like ESG and AML compliance) and coordinate with regulators trying to find temporarily and / or long term solutions.

Due to temporary travel restrictions, it continues to be difficult for asset managers to travel and do their regular business that potentially might impact growth of investment fund structures or creation of the new ones. Substance requirements need to be adapted and become more flexible around Covid-19. To this regard, the Luxembourg government is putting in place specific legislation helping the funds and their management companies by providing flexible organisational processes. In the current circumstances, we are offering our clients full legal support and assistance and providing regulatory updates on current legal environment and potential changes that may impact asset managers and the funds under their the management.

What are the most significant developments you expect within Luxembourg's funds industry over the coming year?

Due to the Covid-19 pandemic, all market players were

forced to adapt quickly to remote working conditions, which has shown that digital transformation of the working environment is necessary. How this will become even more indispensable in the future remains to be seen once the pandemic situation fades out. Digitalisation is meant to play an increasingly important role for all business spheres and we believe that Luxembourg will continue to create favourable environment allowing the financial centre to innovate and develop new products and services in that area bringing Luxembourg to the new level as Fintech business centre.

Additional framework will be created for sustainable finance products helping Luxembourg fund industry to flourish in a greater scale. It is expected that green finance sector will contribute to strengthening Luxembourg's position as a world key hub for impact investment and sustainable finance. We expect a significant growth of terms of ESG or sustainable investment funds over the coming year.

New ESG disclosure regulation and the overall framework of the EU for sustainable investment are part of active discussions amongst market players in Luxembourg, involving ALFI, LPEA, LuxFLAG and other market players. While in our view, it is certainly positive and right to increase awareness of investors, financial market participants and financial advisers for ESG matters by means of governmental regulation, current market practice also must remain to be respected.

At the current stage return expectations of investors also are not always aligned with ESG objectives, however, we see how quickly the situation changes and investors eager to be more informed of the matter and impact of their investments. It should be noted however that no evidence exists that (i) increased expenses due to ESG framework implementations and/or (ii) investments into ESG respecting targets also entail that return rates of financial products would go down. To the contrary, in the mid and long-term ESG investments might even create higher returns than non-ESG investment strategies.

Future will show whether investors will continuously and, perhaps, predominantly require asset managers, AIFMs, UCITS management companies and other financial

market participants to respect ESG rules and/or invest into ESG targets. Certain ESG certification or labelling regimes already seem to raise attention of investors.

Another element, which will become important, is the delegation model. Luxembourg is known for its human resource and technical expertise in the fund industry. However, quite often services are delegated by Luxembourg management companies to other parties residing in other EU countries or even outside of the EU. In particular, the portfolio management function is mostly not carried out from Luxembourg. To this regard the European Commission and also ESMA have announced to verify the delegation model for European investment funds, which would then also have an influence on Luxembourg. It remains to be seen what exactly ESMA and the European Commission have in mind. The current business model is working very well for fund promoters and also investors as it allows making use of capacity and know-how where it exists. If the specific know-how is not located with e.g. the AIFM in Luxembourg, it makes sense to delegate this function to another party, which is much better equipped to act. This model has proven reliable and stable not only for Luxembourg. Other fund domiciles like Ireland or France work on the same presumption. Luxembourg is ready to cope with the topic and is well prepared to even more enforce the delegation model (by creating even more advanced monitoring and checking requirements and procedures).

What are the key objectives over the coming year to ensure Luxembourg remains a competitive global jurisdiction?

Up until now Luxembourg has taken a leading position as financial centre with the EU and has shown strong expertise and high resistance during times of pandemic crisis. To continue to remain competitive global centre, the key objective should be (i) remain flexible and answer clients / investor needs in a most efficient manner, (ii) maintain high level of professionalism and (iii) continue to serve as global hub for cross-border activities focusing on digitalisation and sustainable finance. ■



Dr Marcus Peter
Partner, GSK Stockmann



Marcus Peter heads the investment funds and private equity practice at GSK Stockmann in Luxembourg. Marcus is a lawyer qualified to practice in Germany since 2004 and Luxembourg since 2005. He obtained his LLM and PhD degrees from the European Institute in Saarbruecken, Germany. Prior to joining GSK Stockmann, Marcus worked for a Luxembourg law firm from 2004-16 (spending the last four years as a partner). He has been a partner at GSK Stockmann in Luxembourg since 2016. Marcus is an expert in Luxembourg investment funds and private equity law, M&A and corporate law. He speaks German, English, French and Russian. He is a member of the Luxembourg Private Equity Association (LPEA), Chinese-Luxembourgish Chamber of Commerce, DAV Luxembourg, EVER and CBBL (Cross Border Business Lawyers).



Irina Stoliarova
Senior Associate, GSK Stockmann



Irina Stoliarova is a Senior Associate at GSK Stockmann in Luxembourg. She has experience advising national and international clients on all legal and regulatory aspects in the fields of investment funds (UCITS, AIFs, regulated and non-regulated structures) and private equity as well as corporate and M&A matters. Irina Stoliarova is admitted to the Bar in Luxembourg and speaks Russian, English, French, German and Luxembourgish. She holds a Master's degree in European and International Financial Law (LLM) from the University of Luxembourg, a Master's degree in Business Law - Corporate Tax Management from the University of Nice Sophia Antipolis, France, and is a member of the Luxembourg-Russia Business Chamber and of the Association of the Luxembourg Fund Industry (ALFI).