

卢森堡：中国投资 资金进入全球基金 市场的门户

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本文阐释了卢森堡一直是国际基金业的发展中心的个中原因

卢森堡是绝大多数国际资产管理公司选择设立受监管投资基金和提供相应服务的辖地。

全球排名前100家跨境资产管理公司中，有67家选择了卢森堡作为设立投资基金、在全球范围内发行基金的离岸金融中心。

来自卢森堡监管机构的数据表明，截至2010年9月30日，卢森堡管理下的受监管投资基金资产额达到了2.083万亿欧元。

卢森堡监管下的投资基金

卢森堡从政府、监管机构到整个基金行业，商业氛围十分有利，政治、经济和预算环境特别稳定。这里拥有大批经验丰富、极具创新思维、掌握多种语言的人才队伍，可以协助客户构建和设立基金，处理基础设施建设和支持服务。

所有这些使得卢森堡成为全球首选的跨境基金中心，净资产总额仅次于美国国内基金业。

基金产品包括按照2002年12月20日的法律以及按欧盟标准法规设立的可转让证券集合投资基金（UCITS），这些产品为散户投资者提供了高级别的

保护，还为那些希望在环境较为宽松、构建可能性较大的环境下操作的投资者，提供了监管较为宽松的基金产品。

按照2007年2月13日的法律设立的专业投资基金（SIF），虽面向各个资产级别开放，但专为成熟投资者预留。尽管受到金融危机的影响，专业投资基金仍受到热烈追捧，2007—2010年期间，基金品种从217只增加到了1,144只。

风险投资结构（SICARS）按照专门的法律，要求没有风险分散。

设立上述投资基金结构，须获得卢森堡监管机构的批准。金融危机过后，全球资产管理变得更加透明，甚至针对机构投资者或HNMI以及卢森堡可转让证券集合投资基金和专业投资基金的法规亦如此。全球一流的基金服务商均在卢森堡开展业务，为监管下的基金结构提供本地管理和审计服务。

欧盟可转让证券集合投资基金III指令（UCITS III）和欧盟可转让证券集合投资基金IV指令（UCITS IV）

首次依法创设的卢森堡可转让证券集合投资基

金要回溯到1988年。当时创设的目的是，按照允许跨境销售的通行制度，向整个欧盟的散户投资者提供安全的高流动性投资产品。之后，卢森堡可转让证券集合投资基金逐步发展成为一个以亚洲和南美洲为业务重心、全球认可的品牌。在亚洲，香港、台湾和新加坡，当地的管理机构一直以来都倾向于简易的注册程序。

可转让证券集合投资目前执行的是欧盟可转让证券集合投资基金III指令，自2002年起允许在可转让证券集合投资基金组合中投资于储蓄、货币市场票据、其他投资基金和衍生品。基金可以设立为可转让证券集合投资基金，其投资战略范围可从长期证券、债券、到另类投资，可进行商品、财产的衍生品投资，亦可部分复制传统的对冲基金战略。

2009年，欧盟通过了可转让证券集合投资基金IV指令，并规定2011年7月1日之前在各成员国贯彻实施。可转让证券集合投资基金IV指令的目的在于，提高现行法律框架的效率，进一步加强对投资者的保护。可转让证券集合投资基金IV指令允许某一成员国的基金管理公司管理在其他成员国注册的可转让证券集合投资基金，进一步提高了对基金管理公司组织结构的要求。此外，可转让证券集合投资基金IV指令还力求通过改进不同成员国之间的通告流程，缩短上市时间。未来，投资者利用可转让证券集合投资基金结构，将能够实现跨境并购和投资母子基金。

另外，通过缩减不同投资结构的使用数量，这些举措有望给欧盟投资基金的投资效率带来进一步的提升。最后，“投资者关键信息文件”（KIIF）的引入，是为了改进投资者信息，以便向投资者提供易获取的、可读性强、简洁而全面的文件。

非可转让证券集合投资基金另行执行新的法律要求，这一新法将按照欧盟《另类投资基金管理人指令》（AIFMD）制定并实施。

卢森堡投资基金与中国

→ 按照合格境内机构投资者（QDII）计划：

基金管理公司可以利用卢森堡基金，将国

际客户引入中国的金融市场。

→ **谅解备忘录：**在与中国证券监督管理委员会（CSRC）和中国银行业监督管理委员会（CBRC）签署备忘录后，按照合格境内机构投资者计划，银行、基金管理公司和证券公司可在中国推广含卢森堡可转让证券集合投资基金以及其他一些基金结构在内的投资计划。

尽管首个采用基金结构的合格境内机构投资者计划的发行时间不尽如人意（恰逢金融危机来临之前），但这些由卢森堡监管、认可度非常高的资产管理机构管理的基金，理所当然的是中国散户投资者和机构投资者优先考虑选择的财富管理产品。

卢森堡将目光瞄准了那些希望设立面向全球投资者的投资基金、并推广其中国和亚洲市场独特经验的中国银行和资产管理机构，希望卢森堡能够成为他们的首选之地。近年来，卢森堡吸引了新兴国家资产管理机构越来越多的关注，其中包括中国、俄罗斯、印度和巴西，这些机构纷纷在卢森堡创立了可转让证券集合投资基金结构。

卢森堡的可转让证券集合投资基金目前正在成为中国各大资产管理机构和银行在全球范围内寻求商机趋之若鹜的工具。



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Luxembourg: your gateway to global fund markets

By Jacques Elvinger, Gast Juncker and Michel Mengal, Partners, Elvinger, Hoss & Prussen

Luxembourg remains the centre of the international funds industry. Jacques Elvinger, Gast Juncker and Michel Mengal explain why.

Background

Luxembourg is the domicile of choice for a majority of international asset management firms to set up and service regulated investment funds.

Out of the world's top 100 cross-border asset management groups, 67 have chosen Luxembourg as the jurisdiction in which to establish their investment funds for global distribution.

Figures from the Luxembourg regulator show that as of 30 September 2010 the assets under management for Luxembourg regulated investment funds stood at €2,083 billion.

Luxembourg-regulated investment funds

Luxembourg offers a business-friendly government, regulator and fund industry profession, combined with a unique political, economic and budgetary stability. The country's experienced, innovative and multilingual workforce is available to structure and set up funds, as well as deal with infrastructure and support aspects.

These facts have made Luxembourg the number one cross-border fund centre in the world (second only in terms of total net assets to the United States' (mainly domestic) fund industry).

The products include Undertakings for Collective Investment in Transferable Securities (UCITS) pursuant to the law of 20 December 2002 and subject to coordinated regulation initiated at European Union level. These offer high protection to retail investors. Leaner and less regulated fund products are also available for those investors that

wish to operate in a less restricted environment with greater structuring possibilities.

Specialised Investment Funds (SIFs) pursuant to the law of 13 February 2007 are open to all asset classes but are reserved for well-informed investors. SIFs have remained extremely popular despite the financial crisis, rising from 217 to 1144 between 2007 and 2010.

Risk capital investment structures – also known as SICARS – require no risk diversification pursuant to dedicated legislation.

The establishment of any of these investment fund structures is subject to approval by Luxembourg's regulator. The recent trends in global asset management following the financial crisis are towards greater transparency and regulation even for the institutional investor or HNWI and Luxembourg UCITS and SIFs all offer this. The local custodian and auditor for each regulated fund structure can be chosen from among the world's top class service providers which have all set up operations in Luxembourg.

UCITS III and UCITS IV

Luxembourg UCITS funds were first created under a law dating back to 1988. The aim of UCITS was to offer safe and highly liquid investment products to retail investors across the European Union under a passport regime permitting cross-border sales. UCITS has since then evolved into a globally recognised brand with a focus on Asia and South America. In Asia, a simplified registration procedure has been recognised by authorities in Hong Kong, Taiwan and Singapore.

UCITS are currently subject to a regime called UCITS III which, since 2002, has permitted investment in deposits, money market instruments, other investment funds and derivatives to be offered in a UCITS wrapper. Funds can be set up as UCITS funds with investment policies which range from traditional long-only equity and bond strategies to alternative investment strategies providing derivatives exposure to commodities, property or replicating at least partially traditional hedge fund strategies.

In 2009, the final text of the UCITS IV directive was agreed at the European Union level and is required to be implemented in the national legislation of the member states by 1 July 2011. UCITS IV aims to improve the efficiency of the existing framework and again further enhance investor protection. UCITS IV will permit management companies in one member state to manage UCITS in other member states and again increase the organisational requirements for management companies. UCITS IV will also aim to reduce time to market by improving the notification process between different member states. Investors will be able to use UCITS structures for cross-border mergers and master-feeder arrangements.

It is hoped that these measures will increase the efficiency of the European investment fund landscape by reducing the number of different structures used. Finally, the introduction of the key investor information document (KIID) will aim to improve investor information by providing an easily accessible and readable, short and informative document to the investor.

Non-UCITS structures will be subject to new legislation which will be developed and implemented pursuant to the Alternative Investment Fund Managers Directive (AIFMD)

Luxembourg investment funds and China

- **QDII schemes:** Under the Qualified Domestic Institutional Investor (QDII) schemes, fund management groups can use Luxembourg funds to provide their international client base with exposure to the Chinese financial markets.
- **Memoranda of Understanding:** Following the signing of Memoranda of Understanding

with both the China Securities Regulatory Commission (CSRC) and the China Banking Regulatory Commission (CBRC), the QDII schemes now permit banks, fund managers and securities firms to promote schemes incorporating Luxembourg UCITS (as well as certain other fund structures) in China.

Despite the unfortunate timing of the launch of the first QDII schemes using fund structures (just before the financial crisis), those Luxembourg-regulated funds which are managed by the most recognised asset management houses should remain the preferred wealth management products for Chinese retail and institutional investors.

Luxembourg aims to become the favourite jurisdiction of Chinese banks and asset managers looking to establish investment funds and sell their unique experience in the Chinese and Asian markets to investors worldwide. In recent years, Luxembourg has seen increased interest from asset managers from emerging countries (including China, Russia, India and Brazil) to create UCITS structures in Luxembourg.

The Luxembourg UCITS is on track to become the go-to structure for the creation of global business opportunities for Chinese asset managers and banks.

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