ELVINGER, HOSS & PRUSSEN

AVOCATS À LA COUR

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1. Law of 10 December 2010 on the introduction of international accounting standards for undertakings

The Law of 10 December 2010 on the introduction of international accounting standards for undertakings amending (1.) the amended Law of 19 December 2002 on the register of commerce and companies and the accounting and annual accounts of undertakings (2.) the Law of 10 August 1915 on commercial companies, as amended and (3.) Article 13 of the Commercial Code has been published in the Memorial A 225 of 17 December 2010 and will enter into force on 21 December 2010.

Undertakings have the option not to apply this law with respect to their current financial year.

An update of the English and French language versions of the Law of 10 August 1915 on commercial companies and of the Law of 19 December 2002 on the register of commerce and companies and the accounting and annual accounts of undertakings, will be available on our website shortly.

2. UCITS IV – Implementation in Luxembourg

The Bill of Law n° 6170 was voted by the Luxembourg Parliament on the 16 of December 2010. The Law requires the signature of the Grand Duke before it can be published in the Luxembourg *Mémorial*. A Special Newsletter dedicated to the new law implementing UCITS IV in Luxembourg is available on our website.

3. Directive 2010/76/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies (CRD III rules on remuneration)

On 11 October 2010 the European Council adopted the Directive of the European Parliament and of the Council amending Directives 2006/48/EC[1] and 2006/49/EC[2] as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies (hereafter "CRD III Directive"). The CRD III Directive was published in the official journal of the European Union on 14 December 2010 (L 329/3).

The CRD III Directive introduces the obligation for credit institutions and investment firms to establish remuneration policies that are consistent with and promote sound and effective risk management and do not encourage risk taking that exceeds the level of tolerated risk of the credit institution. These remuneration policies shall moreover fall within the scope of supervisory review, the competent supervisory authority having the right to apply financial and non-financial penalties or other measures.

These new rules on remuneration policies complete and strengthen the Commission Recommendation 2009/384/EC of 30 April 2009 on remuneration policies in the financial services sector, which has been implemented under Luxembourg law by Circular CSSF 10/437 relating to guidelines concerning the remuneration policies in the financial sector. The Circular CSSF 10/437, however, applies to all entities subject to the CSSF's prudential supervision while the CRD III Directive only applies to credit institutions and investment firms.

I. Scope of application and content of the new remuneration principles

The new remuneration principles shall apply to the following persons occupied in credit institutions and investment firms whose professional activities have a material impact on the risk profile:

- senior management;
- risk takers;
- staff engaged in control functions; and
- any employee receiving a total remuneration that takes them into the same remuneration bracket as senior management and risk takers.

You will find below some of the most significant requirements, with which the institutions concerned should comply *"in a way and to the extent that is appropriate to their size, internal organisation and the nature, the scope and the complexity of their activities"*:

[1] Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions.

[2] Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions.

a) The variable part of the remuneration shall be based on a combination of the assessment of the performance of the employee and of the overall results of the institution. When assessing individual performance, financial as well as non-financial criteria shall be taken into account and the assessment of the performance must be set in a multi-year framework in order to ensure that the assessment process is based on longer-term performance;

b) Fixed and variable components of total remuneration shall be appropriately balanced and the fixed component shall represent a sufficiently high proportion of the total remuneration to allow the operation of a fully flexible policy, including the option to withhold bonuses when the situation deteriorates significantly. The Committee of European Banking Supervisors (CEBS) shall provide for guidelines on the appropriate ratio between fixed and variable salary;

c) At least 50 % of any variable remuneration shall consist of shares or equivalent ownership interests or share-linked instruments or equivalent non-cash instruments;

d) At least 40 % of the variable remuneration component shall be deferred over a period of not less than 3 to 5 years. In the case of a variable remuneration component of a particularly high amount, at least 60 % of the amount shall be deferred; given the rule of the 50% mentioned under point c) above, cash bonuses shall thus be capped at a maximum amount of 30% or, for larger bonuses, 20% of total variable remuneration;

e) The variable remuneration shall be considerably contracted where subdued or negative financial performance of the institution occurs, including through malus or clawback arrangements;

f) If the employee leaves the institution before retirement, discretionary pension benefits shall be held by the institution for a period of five years in the form of shares or equivalent instruments. In the case of an employee reaching retirement, discretionary pension benefits shall be paid to the employee in the form of shares or equivalent instruments subject to a five-year retention period;

g) Staff engaged in control functions must be remunerated in accordance with the achievement of the objectives linked to their functions, independent of the performance of the business areas they control;

h) Guaranteed variable remuneration should be exceptional and should occur only in the context of hiring new staff and be limited to the first year of employment;

i) Payments related to the early termination of a contract shall reflect performance achieved over time and do not reward failure;

j) Specific rules are provided for the payment of variable remuneration by institutions which benefit from exceptional government intervention (i.e. limitation of the variable remuneration; prohibition to pay bonuses to directors unless justified);

k) Institutions that are significant in terms of their size, internal organisation and the nature, scope and complexity of their activities shall establish a remuneration committee; the remuneration of the senior officers in the risk management and compliance functions shall be directly overseen by the remuneration committee.

l) A certain amount of information shall be disclosed to the public in relation to the remuneration policies (information on the decision-making process used for determining the remuneration policy; information on the link between pay and performance; the most important design characteristics of the remuneration system, etc). Significant institutions will have to make this information available at the level of their directors.

m) The competent supervisory authority shall collect information on the number of individuals per institution earning at least EUR 1 million including the business area involved and details of the main elements of salary including bonus, long- term awards and pension contributions.

II. Implementation under Luxembourg law

The CRD III Directive entered into force on the day following its publication in the Official Journal of the European Union, i.e. on 15 December 2010.

The provisions relating to the remuneration policies shall be implemented by 1 January 2011 and shall apply retroactively to the remuneration awarded, but not yet paid, before the date of effective implementation under Luxembourg law. Hence current contractual arrangements will have to be reviewed in application of the employment law provisions.

From the information in our possession, these provisions shall be implemented by a CSSF circular modifying CSSF Circulars 06/273 and 07/290, a modification of the Law of 5 April 1993 on the financial sector or on the Labour Code of 31 July 2006 not being envisaged. An ABBL working group is currently working out guidelines / recommendations on the implementation of the CRD III rules on remuneration policies in relation to employment law issues .

4. Alternative Investment Fund Managers Directive

After long-lasting discussions over the past 18 months, the European Council indicated, at the meeting of the Committee of Permanent Representatives (COREPER) of 27 October 2010, its willingness to accept the text of the Alternative Investment Fund Managers Directive (AIFMD) which was subsequently voted by the European Parliament at its Plenary session of 11 November 2010.The Council is expected to adopt formally the Directive in January 2011. Once the Directive will have been formally approved and published, EU Member States will have to implement the Directive at national level within 2 years. From this mandatory date of implementation, existing AIFMs have 1 more year to comply with the new regime. We will publish shortly a Special Newsletter dedicated to the AIFMD.

5. Law of 27 October 2010 relating to the fight against money laundering and financing of terrorism

The law of 27 October 2010 is strengthening the legal framework relating to the fight against money laundering and the financing of terrorism (the "Law"). The Law came into force three days after its publication on 3 November 2010.

In the field of financing of terrorism, the Law implements several resolutions of the United Nations Security Council and several European Union regulations adopting restrictive measures and prohibitions against certain persons, entities or groups with respect to money laundering and the financing of terrorism. The Law modifies numerous existing laws, among others the Luxembourgish Criminal Code and the Luxembourgish Criminal Proceedings Code.

The purpose hereof is to focus on the main modifications brought to the law of 12 November 2004 combating money laundering and terrorism financing (the "AML Law"). These modifications take into account the comments that the Financial Action Task Force (FATF) of the OECD made in its recent evaluation report dated 19 February 2010 on the Luxembourg system.

I. Extension of the scope of the AML Law

The Law extends the scope of the AML Law by enlarging the definition of the professionals that shall conduct anti-money laundering customer due diligence (the "Professionals"). The new categories of Professionals are in particular :

- management companies of undertakings for collective investments (UCI),
- management companies of investment companies in risk capital (the Luxembourg *SICAR*), management companies of pension funds,
- the securitisation undertakings when they act as service providers to companies and fiduciary structures,
- insurance and reinsurance companies and their intermediaries when they perform credit or surety operations, and
- persons who perform on a commercial basis one or several activities listed in the AML Law appendices (mainly banking activities) in the name or on behalf of a client.

Conversely, the Law specifies that all foreign branches and subsidiaries of the Professionals have to apply standards at least equivalent to the AML Law and shall therefore apply the anti-money laundering obligations in European Economic Area countries as well as in third party countries (namely application of the stricter rule - to the extent allowed by local laws - and information of the Luxembourg authorities when the local law does not allow the implementation of equivalent measures to the AML Law).

II. New requirements for Professionals under the AML Law

In relation to the customer identification due diligence process the Law changed the wording *"appropriate measures adapted to the risk*" for "*reasonable measures*", but the consequences of such a change on the exact customer due diligence the Professionals have to implement remain uncertain.

As an example, according to the FATF's 5th Recommendation, "*reasonable measures*" with respect to the beneficial owner's identification shall mean :

- the identification of the natural persons with a controlling interest, and
- the identification of the natural persons that comprise the mind and management of the legal person or arrangement.

The Law also abolishes the exemption to implement due diligence with respect to certain types of clients (listed companies, regulated financial institutions). The exemption is replaced by the possibility to implement simplified customer due diligence to identify the client and the owner or beneficial owner. However, the Professional shall ensure that he has "sufficient information" to determine whether simplified customer

due diligence can be implemented or not, i.e. the Professional shall have a "reasonable level of information" relating to the identification of his client, the beneficial owner and the purpose and nature of the business relationship.

This reasonable level of information shall be maintained along with the business relationship, and not only when the Professional enters into the relationship.

For the customer due diligence that is conducted through a financial institution (ie the documents required are not delivered by the client himself but through a financial institution), the Professional shall ensure that the financial institution is governed by Luxembourg law or by equivalent professional obligations.

Moreover, the Law extends to all Professionals the prohibition that previously prevented only credit institutions from maintaining correspondent banking relationships with shell companies or banks known to allow shell companies to use their accounts.

Under the new Section 3 §3 of the AML Law, the Professionals shall make an analysis of the risks of their activity and put the results of such analysis in writing. This analysis, on a risk-based approach, enables the Professional to justify the cases in which only simplified customer due diligence can be implemented and to identify the cases in which strenghtened customer due diligence is needed.

Each Professional shall appoint a compliance officer (cf. Circular Letter 22/10 of the *Luxembourg Parquet* dated 8 November 2010) who will be in charge of the relationship with the financial intelligence unit (*Cellule de Renseignement Financier* (the "CRF")) within the public prosecutor office (the *Luxembourg Parquet)* that has been created by the Law.

The declarations of suspicion shall forthwith be accompanied by all the information and documents on which the declaration was based.

The CRF shall be informed "without delay" (instead of "promptly" before).

III. Powers of the CRF

The CRF has been given broader powers by the Law : it has a new power of initiative, which means that it can require information and documents and suspend an operation without any prior declaration of suspicion from a Professional. The Professional is not authorised to inform his client of such an initiative from the CRF.

The law also puts an end to the debate whether Professionals can invoke their professional secrecy to refuse to accomplish the declarations of suspicion or transmit information and documents: the Law provides that professional secrecy does not apply when a Professional is required to communicate information to the CRF.

Conversely, the Law provides that information and documents a Professional has transmitted pursuant to the Law cannot be used against him in proceedings for breach of professional obligations pursuant to Section 9 of the AML Law. This provision protects the Professional from self-incrimination.

Finally, the Law increases substantially the maximum fines under Section 9 of the AML Law : any persons who have knowingly contravened their professional obligations under the AML Law may therefore be fined up to 1,250,000€ (125,000€ previously).

6. Law of 26 October 2010 on reorganisation of the Chamber of Commerce as well as subsequent contribution regulations

By adopting the Law on reorganisation of the Chamber of Commerce on 26 October 2010 published in the official gazette on 29 October 2010 and the contribution regulations and internal regulations adopted by the Chamber of Commerce on 29 October 2010 and 3 December 2010 both published in the official gazette of 3 December 2010, the necessary steps have been taken so as to allow the Chamber of Commerce to issue contribution certificates ("Bulletins de cotisation") for the year 2010. This Law and the underlying regulations were necessary in order to remedy the illegality of Chamber of Commerce fees declared by the administrative court of appeal following orders issues on 17 April 2008 (role number 23755C) and 17 June 2010 (role number 26753C.

The Chamber of Commerce is authorised to proceed with the levying of those contributions for the year 2010 on the basis of these new regulations so that it is expected that the Bulletins de cotisations will be issued; this issue we understand, has already occurred.

In accordance with the Law of 26 October 2010, the following persons are members of the Chamber of Commerce as of right:

- any legal person which was incorporated under the form of a commercial company and having its registered office in the Grand Duchy of Luxembourg, as well as;
- any individual engaged in a commercial, industrial or financial activity in the Grand Duchy of Luxembourg,
- any subsidiary of a foreign company, which is established in Luxembourg and engaged in a commercial, industrial or financial activity.

The status of "member" of the Chamber of Commerce is acquired as of right on the day of the registration with the *Registre de Commerce et des Sociétés* (Trade and Companies Register) and becomes void on the day of its removal.

Members duly registered in the list of members and contributions of the Chamber of Commerce, either *ex officio*, or on their own initiative, or on the basis of descriptive data supplied monthly by the *Administration des Contributions Directes* (Direct Tax Authority).

A temporary interruption from a commercial, financial or industrial activity does not terminate one's membership of the Chamber of Commerce. The liquidation, decision with respect to the winding up or cessation of the commercial, financial or industrial activity do not terminate the membership of the Chamber of Commerce and do not grant exemption from the payment of contributions due.

Legal persons or individuals as well as any subsidiaries of foreign companies which are members of the Chamber of Trade within the meaning of Article 8 of the Grand Ducal decree of 8 October 1945 reorganising the status of the Chamber of Craft Workers are not members of the Chamber of Commerce.

However, a member of the Chamber of Trade may also be a member of the Chamber of Commerce, in the case of a commercial or industrial company operating a secondary craft business while remaining directly linked to the main operation pursuant to the legislation relating to establishment. The same applies to members of the Chamber of Trade holding authorisation as a trader, in the case where the actual pursuit of a trade of articles and products which have nothing to do with its craft activity is established.

The regulations taken on 12 November 2010 provide for minimum contributions, flat-rate contributions and graduated contributions.

(i) Minimum contribution

The minimum contributions are as follows:

- EUR 14 for persons;
- EUR 70 for sociétés de personnes (partnerships) and sociétés à responsabilité limitée (limited company);
- EUR 140 for sociétés de capitaux (joint-stock companies), except for sociétés à responsabilité limitée (limited company)

(ii) Flat-rate contribution

A flat-rate amount of the contribution for companies which mainly hold financial interests and which are listed as such according to the Statistical Classification of Economic Activities in the European Community (NACE), in its Luxembourg version, with effect from 1 January of the year of payment is fixed at EUR 350.

(iii) Graduated contribution

For members with trading profits exceeding EUR 49,500,000, the following rates are applicable for the calculation of the contribution:

When the trading profits are below or equal to EUR 49,500,000, the applicable rate is 2%.

For the bracket exceeding EUR 49,500,000, the applicable rate is 1.5%.

For the bracket exceeding EUR 86,500,000, the applicable rate is 1%.

For the bracket exceeding EUR 99,000,000, the applicable rate is 0.5%.

For the bracket exceeding EUR 111,500,000, the applicable rate is 0.25%.

The contribution to be paid may be obtained by adding the amounts resulting from the calculations relating to the various relevant brackets.

7. Tax update

I. Luxembourg SICAR qualifies as "investment company" for Belgian "RDT"-rules

The Belgian Ruling Commission has ruled in a recent decision that a Luxembourg SICAR may qualify as an "investment company" under Belgian "RDT"-rules and that therefore, under conditions, dividends and capital gains from the SICAR could be exempt for Belgian corporate investors. Dividends received from the SICAR by Belgian individual investors could benefit from the reduced 15% withholding tax.

II. In principle as from 1 January 2011, the following tax measures will render Luxembourg even more attractive as a hub for investment funds

- Exemption from subscription tax for ETFs

ETFs will be exempt from subscription tax that is currently levied on their net asset value.

- Exemption from subscription tax for multi-employer pension pooling funds

The exemption from subscription tax applicable to single-employer pension pooling vehicles is extended to multi-employer pension pooling vehicles whether set-up as SIF or under the Law of 20 December 2002.

- Non-resident investment funds do not become Luxembourg tax resident because of Luxembourg management company or a Luxembourg central administration

To strengthen the possibility of full passporting of management companies not only under UCITS IV but also the forthcoming AIFM Directive, new provisions are introduced into Luxembourg tax law preventing non-resident investment funds becoming taxable in Luxembourg solely by having their place of effective management or their central administration in Luxembourg.

- Capital gains realised by non-resident investors of Luxembourg corporate-type investment funds no longer taxable in Luxembourg

Capital gains realised by non-residents investors on the sale of units in Luxembourg corporate-type investment funds (SICAVs/SICAFs/SIFs) will, even in the absence of any tax treaty, no longer be taxable in Luxembourg, regardless of holding stake and holding period, thus taking away any exposure in this respect for foreign feeder of Luxembourg investment funds.

III. The draft finance bill for 2011 provides for the following tax measures, in principle applicable from 1 January 2011:

- Corporation taxes

Increase of effective corporate tax rate to 28.80% Surcharge for the employment fund

The surcharge for the employment fund will be increase from 4% to 5% resulting in an aggregate corporate tax rate for the City of Luxembourg of 28.80% (instead of 28.59% currently).

EUR 1.500 minimum taxation for Luxembourg companies

A minimum taxation of EUR 1.500 is introduced for any Luxembourg company not benefitting from a special tax regime. This concerns all companies whose fixed financial assets, transferable securities and cash at bank represents more than 90% of total assets. The minimum tax can be carried forward and be credited against an effective corporate tax liability.

Improvement of tax credit for investment ("bonification d'impôt pour investissement")

The tax credit for investment under article 152bis of the Luxembourg Income Tax Law will be improved, together with an enhancement of the depreciation measures for energy saving investments that is increased to 80%.

Limitation on tax deductibility of exit payments

The tax deductibility of exit and redundancy payments made after 1 January 2011 will be limited for the employer to payments of up to EUR 300.000. The tax treatment for the recipient of the payment remains unchanged by such limitation of the tax deductibility.

1.25% standard rate for the social security contribution for insurance and accident

The social security contribution for insurance and accident that currently varies, depending on the risks, from 0.45 to 6% of the gross wages and salaries, subject to a monthly ceiling of EUR 8,413 (from 1 March 2009) will be standardised for all sectors of activity to a rate of 1.25%.

- Income taxation for individuals

Increase of the marginal tax rate to 39%

A new top marginal tax rate of 39% will be introduced for taxable income exceeding EUR 41.793 (doubled for a household of 2 persons).

Increase of the surcharge for employment fund

The surcharge for the employment fund, currently levied at the rate of 2.5%, will be increased to 4% for income of less than € 150.000, and to 6% for income exceeding € 150.000 (doubled for a household of 2 persons).

Introduction of a special "crisis tax"

A "crisis tax" of 0.8% applicable on all types of professional income (except minimum wage salaries), income from property and income from certain pensions will be introduced for 2011 and 2012.

The impact of these three measures implies that the aggregate tax income rate of currently 38.95% will be increased to 42.14%.

8. Loi du 3 août 2010 portant modification de la loi modifiée du 18 février 1885 sur les pourvois et la procédure en cassation

La loi du 3 août 2010 "portant modification de la loi modifiée du 18 février 1885 sur les pourvois et la procédure en cassation", publiée le 12 août 2010 au Mémorial A N° 133 page 2.188, est entrée en vigueur le 16 août 2010 (la "Loi").

Dans le passé, un nombre important de pourvois en cassation furent déclarés irrecevables au motif que les moyens ne furent pas libellés correctement.

La Loi ne vise pas une réforme en profondeur de la procédure relative au pourvoi en cassation, mais une réforme *a minima* telle que rappelée dans les travaux parlementaires, réforme qui a été jugée nécessaire suite à un arrêt Kemp et autres c/ Luxembourg du 24 avril 2008 par laquelle la Cour Européenne des Droits de l'Homme ("CEDH") a constaté qu'il y a excès de formalisme lorsque "(…) l'interprétation par trop formaliste de la légalité ordinaire faite par une juridiction empêche, de fait, l'examen au fond du recours exercé par l'intéressé". En outre dans l'affaire Dattel du 30 juillet 2009, la CEDH a considéré qu'un moyen de cassation peut être complété par des développements en droit qui doivent être pris en considération.

Sur l'arrière-fond de ces jurisprudences, le législateur a en particulier modifié l'article 10 de la Loi en donnant des *guidelines* pour rédiger le moyen ou une branche de moyens. Il faut indiquer: (i) le cas d'ouverture invoqué, (ii) la partie critiquée de la décision et (iii) en quoi la partie critiquée de la décision encourt le reproche allégué. En outre, l'énoncé du moyen peut être complété par des développements en droit qui doivent être pris en considération.

Au vu de ces modifications, il y a lieu d'espérer que le nombre des pourvois en cassation qui seront déclarés irrecevables diminuera de façon substantielle.

9. Law of 26 July 2010 on market abuses

The law of 26 July 2010 (the "Law") modifies the law of 9 May 2006 on market abuse (the "2006 Law") and completes the transposition of the 2003/6/EC Directive on insider dealing and market manipulations (market abuse).

The Law brings several extensions to the powers of the *Commission de Surveillance du Secteur Financier* (CSSF), which is the authority ensuring the application of the 2006 Law.

All persons under the scope of the 2006 Law can forthwith be submitted to on-the-spot inspections from the CSSF while the 2006 Law provided before that only persons subject to the prudential supervision of the CSSF could be submitted to such inspections.

The condition is that persons who are not subject to the prudential supervision have given their prior consent thereto. If such consent cannot be given the CSSF shall request an authorisation from the enquiring judge (*juge d'instruction près le tribunal d'arrondissement*) who will designate a judicial police officer to assist the CSSF.

The CSSF can inspect any place in which any relevant evidence may be found.

The Law also repeals Section 33 of the 2006 Law and replaces it with a new section pertaining to the sanctions the CSSF can pronounce.

The violation of the prohibition of insider dealings and market manipulations can be punished with a fine up to 1,500,000€.

The violation by the market participants of their obligations under the 2006 Law is punished by a fine up to 150,000€, after an injunction to remedy the breach of such obligations.

If the violation has benefited the violator, the fine can be set to an amount up to 10 times the profit made and cannot be inferior to the profit made.

The CSSF can also fine up to 25,000€ any person who may impede the exercise of its powers, and fine any person who does not respond to an injunction or deliberately gave inaccurate or misleading information.

The CSSF shall inform the state prosecutor (*Procureur d'Etat*) upon the opening of an administrative procedure that may entail one of the above-mentioned fines.

The state prosecutor shall decide to prosecute or not. If the prosecutor does not respond within three days or refuses to prosecute, the CSSF may initiate the administrative proceedings.

If the proceedings reveal that the suspected persons may have breached the prohibition of insider dealings and market manipulation, the CSSF shall relinquish itself from the case and transmit it to the state prosecutor.

Finally, the state prosecutor who has received a complaint about insider dealings or market manipulation shall inform the CSSF.

In the event that he does not prosecute, or find that the criminal sanctions pursuant to Section 32 of the 2006 law may not apply but that the provisions of Section 29 of the 2006 Law may apply, the case shall then be transmitted to the CSSF.

10.CSSF Circular 10/467 inter alia on periodic electronic transmission of financial information to be transmitted to the CSSF by management companies subject to Chapter 13 of the Law of 20 December 2002 relating to UCI and amending certain elements of CSSF Circular 03/108

This new Circular imposes on Chapter 13 management companies the electronic transmission of periodical

financial data and the use of new secured transmission channels (e-file or SOFIE) and provides a template to be used for the transmission of statistical tables. In addition, other duties such as reflecting audited figures at the end of each financial year in the final tables are also imposed.

11.Grand Ducal Regulation of 27 May 2010 on the credit rating agencies

The Grand Ducal Regulation dated 27 May 2010 designates the Commission de Surveillance du Secteur Financier (CSSF) as the competent authority in Luxembourg for the application of the European Regulation 1060/2009/CE of 16 September 2009 on credit rating agencies (Section 22. 1.).