

Luxembourg Proceeds with AIFMD II Implementation

4 March 2026

On 12 February 2026, Luxembourg adopted Bill of Law no. 8628 (the “Law”), completing its transposition of Directive (EU) 2024/927 (“AIFMD II”), which amends the law of 12 July 2013 on alternative investment fund managers (the “AIFM Law”) and the law of 17 December 2010 relating to undertakings for collective investment (the “UCI Law”). The Chamber of Deputies approved the bill at its first constitutional vote and simultaneously granted a dispensation from the second constitutional vote, removing any further procedural hurdle before promulgation.

The Law is expected to be published in the Mémorial and to enter into force on 16 April 2026, with certain reporting requirements deferred until April 2027 in accordance with AIFMD II.

In keeping with Luxembourg’s long-standing approach, the Law transposes AIFMD II without exceeding the Directive’s requirements in a substantive way. Luxembourg has nonetheless made targeted use of available Member State discretions—most notably, an in-territory prohibition on AIF lending to and credit-servicing of consumers in Luxembourg—while preserving the competitive positioning of the Luxembourg fund industry.

This article focuses on the specifics of the Luxembourg implementation of AIFMD II; readers seeking a detailed analysis of the AIFMD II framework as adopted at the EU level—including the loan-origination regime, borrower restrictions, risk-retention requirements, leverage limits, transitional provisions and liquidity management tools—are referred to our August 2024 publication, [AIFMD II—Loan Origination and Liquidity Management](#).

A Principles-Based Implementation with Local Nuance

The Law mirrors the EU framework closely, ensuring consistency across Member States, yet it makes targeted use of national options, where justified by market realities. The approach serves two objectives: to strengthen investor protection and regulatory

convergence and to allow managers and service providers in Luxembourg to retain flexibility in operational areas such as liquidity management, delegation and loan origination.

Loan Origination—A Balanced Regime

AIFMD II's key innovation is to establish a harmonised European regime for AIFs whose investment strategy is mainly to originate loans or whose originated loans have a notional value that represents at least 50% of their net asset value (the Loan Originating AIFs). The Law introduces this framework into Luxembourg law, confirming the right of AIFs to originate loans under the conditions set out in AIFMD II, in particular, rules on leverage limits, diversification and risk retention.

Luxembourg has exercised the Member State option to prohibit AIFs from granting loans to consumers in Luxembourg (as defined by reference to the Consumer Code) and from servicing consumer credit in Luxembourg. This prohibition applies to any AIF that originates or grants loans—irrespective of whether it formally qualifies as a Loan-Originating AIF under the definitional threshold¹—and regardless of whether the AIFM is authorised in Luxembourg or abroad, provided the borrower is a consumer located in Luxembourg. Luxembourg AIFs may, however, originate or service consumer loans in other Member States that have not imposed an equivalent prohibition, and the prohibition does not affect the acquisition of portfolios of consumer credit on the secondary market.

AIFMs engaged in loan origination activities will need to adopt robust credit assessment, monitoring and governance policies consistent with AIFMD II's requirements. The overarching message is one of prudence and transparency rather than restriction.

Liquidity Management—from Toolbox to Framework

Open-ended AIFs and UCITS will be subject to a harmonised liquidity management regime, requiring each fund to select and maintain at least two appropriate liquidity management tools from a harmonised list that includes redemption gates, swing pricing, anti-dilution levies and notice-period extensions. Side pockets can be used in addition in exceptional circumstances. All such funds must have the power to

¹ It should be noted that the Luxembourg legislation follows expressly the text of the English version of AIFMD II, whereas the French version implies that the prohibition would only work towards Loan Originating AIFs.

temporarily suspend the subscription, repurchase or redemption of the fund's units or shares in exceptional circumstances.

The Law also authorises the use of additional liquidity management tools which the manager may determine, provided their possible use is clearly disclosed to investors and the CSSF. The approach recognises that liquidity events can differ across asset classes and gives managers flexibility to protect investors in times of stress.

Enhanced disclosure and notification obligations accompany the new rules, ensuring that both regulators and investors understand the fund's liquidity profile and available tools.

Ancillary Services, Delegation and Distribution

Expanded Ancillary Services

The Law broadens the scope of activities that AIFMs and UCITS management companies may perform as ancillary activities under their main authorisation. In addition to existing functions, managers may now engage in credit servicing and benchmark administration and may offer to third parties the same operational or risk-management services they already perform for their own funds (including anti-money laundering checks, corporate services (such as preparing shareholder and/or board meetings), and administrative, risk management and marketing services), provided conflicts of interest are effectively managed.

The notion of “third party” is interpreted broadly—covering not only other AIFs or UCITS but also co-investment or carried-interest vehicles, pension funds, securitisation or insurance vehicles and similar structures. This expansion acknowledges the evolving ecosystem around fund management and aims to strengthen Luxembourg's competitive edge as a cross-border service hub.

Distributors Acting “On Their Own Behalf”

The Law introduces a notable clarification with respect to the distribution of UCITS and AIFs. Where a regulated distributor markets a UCITS or an AIF “on its own behalf”—for example, a MiFID-authorized firm or an insurance intermediary that contracts directly with investors in its own name—this does not constitute a delegation of the marketing function by the UCITS management company or the AIFM, and the delegation framework (including prior CSSF notification, due diligence as a delegate and ongoing oversight obligations) does not apply to such distributors.

In practical terms, the Law positions ordinary MiFID distributors and insurance distributors of UCITS and AIFs more cleanly as “on-its-own-behalf” distributors rather than delegates, limiting delegation-style oversight obligations. AIFMs and UCITS management companies nonetheless remain responsible for managing conflicts of interest, ensuring appropriate target market alignment and maintaining adequate information flows with their distributors. Only where a third party is genuinely entrusted with carrying out the marketing function in the name of, or on behalf of, the AIFM or UCITS management company do the stricter delegation provisions fully apply.

This clarification is expected to be reflected in an updated version of CSSF Circular 18/698, to be revised to take into account the impact of the Law on distribution arrangements, among other regulatory and legal developments of recent years.

Employee Participation Marketing Route

A new article 46(4) of the AIFM Law allows EU AIFs that invest primarily in the shares of a given company to be marketed in Luxembourg to that company’s Luxembourg-based employees (or the Luxembourg-based employees of any of its affiliates) under employee savings or participation schemes. Where such an AIF is domiciled in another Member State and marketed cross-border to employees on Luxembourg territory, no additional Luxembourg requirements may be imposed beyond those applicable in the AIF’s home Member State, facilitating cross-border employee participation-type distributions into Luxembourg.

Substance and Governance—Formalising Existing Practice

In line with AIFMD II’s focus on substance, the Law codifies the requirement for each Luxembourg AIFM and UCITS management company to have at least two full-time individuals domiciled in the European Union responsible for its day-to-day management. The authorised program of activities must outline organisational structure, resources and governance lines. For most Luxembourg entities, these provisions formalise standards already expected by the CSSF and should not entail major operational changes.

Depositary Services—No Change for Luxembourg

The AIFMD II cross-border depositary derogation—which allows eligible Member States to permit domestic AIFs to appoint a depositary established in another Member State—is not available to Luxembourg, whose depositary market exceeds the EUR 50

billion threshold that conditions eligibility for the measure. Luxembourg AIFs must therefore continue to appoint a depositary established in Luxembourg.

The Law does, however, remove any potential domestic barrier by carving out from the Luxembourg-depositary requirement those EU AIFs whose home state has authorised the appointment of a depositary established in a Member State other than the AIF's home state pursuant to Article 21(5bis) of the AIFMD. Conversely, Luxembourg depositaries remain free to provide depositary services to AIFs established in Member States that have activated the cross-border depositary option, where the competent authority of the AIF's home Member State has approved the specific cross-border appointment.

Auditor's Report Exemption for UCITS

A distinctive local addition concerns UCITS established as investment companies with variable capital (SICAVs). These vehicles will be exempt from the obligation to obtain an independent auditor's report when issuing shares against contributions in kind, provided investors are treated equitably. The change is particularly relevant for UCITS ETFs, where share creation and redemption frequently occur through in-kind transfers.

Entry into Force and Practical Considerations

Following the Law's adoption, the new regime will apply from 16 April 2026, with an additional year granted for implementation of enhanced reporting obligations.

Fund managers, depositaries and administrators should assess their internal policies and documentation to align with the new framework—particularly in areas of liquidity management, delegation oversight and lending practices. The Law is expected to be published in the *Mémorial* (Luxembourg's Official Gazette) in the coming weeks, triggering the formal timeline for entry into force.

Luxembourg's pragmatic transposition confirms its intent to maintain regulatory consistency across the European Union whilst continuing to offer a stable and flexible environment for investment fund operations.

In summary, Luxembourg's transposition of AIFMD II represents an evolution rather than a revolution: a measured update that reinforces market discipline and investor protection without compromising the jurisdiction's hallmark adaptability and cross-border relevance.

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