



ALFI Code of Conduct for Luxembourg Investment Funds

Introduction

The purpose of the ALFI Code of Conduct is to provide boards of directors with a framework of high-level principles and best practice recommendations for the governance of Luxembourg investment funds. The Code is “principles” rather than “rules” based in that it relies upon good judgement rather than prescription. As such, the recommendations recognise that the “right approach” for many issues depends on the circumstances.

The Code is not designed to supersede applicable law and regulations.

In addition to this Code, ALFI may issue in due course detailed guidelines on specific issues, which require more practical guidance.

The Code has been introduced to formalise and encapsulate existing best practice in the light of the implementation of EU Directive 2006/46/EC into Luxembourg law. This Directive aims to facilitate cross-border investment and improve EU-wide comparability and public confidence in financial statements and reports. Notably, the Directive calls for enhanced and consistent disclosures including an annual corporate governance statement as a clearly identifiable section in annual financial reports. The corporate governance statement should make clear whether the company applies provisions on corporate governance other than those provided for in law.

While the Directive strictly applies only to listed companies including listed funds, ALFI believes it is appropriate to extend the Code to all funds – listed or unlisted – in order to have a uniform and consistent approach in the marketplace. References to “fund” in the Code cover all types of regulated Luxembourg undertakings for collective investment supervised by the CSSF, whether UCITS or non-UCITS (including SIFs) under whatever form, including Sicavs, Sicaifs, FCPs, Asseps or Sepcavs. References in the Code to the “Board” are to the body responsible by law for managing, administering and supervising the relevant fund.

To improve transparency and demonstrate commitment to high standards of corporate governance, it should be best practice for Boards of Luxembourg funds to confirm adherence to the Code in their annual financial statements. Such confirmation demonstrates to investors a Board’s explicit commitment to good governance.



Principles:

I. The Board should ensure that high standards of corporate governance are applied at all times

II. The Board should have good professional standing and appropriate experience and use best efforts to ensure that it is collectively competent to fulfil its responsibilities

III. The Board should act fairly and independently in the best interests of the investors

IV. The Board should act with due care and diligence in the performance of their duties

V. The Board should ensure compliance with all applicable laws, regulations and with the fund's constitutional documents

VI. The Board should ensure that investors are properly informed, are fairly and equitably treated, and receive the benefits and services to which they are entitled

VII. The Board should ensure that an effective risk management process and appropriate internal controls are in place

VIII. The Board should identify and manage fairly and effectively, to the best of its ability, any actual, potential or apparent conflict of interest and ensure appropriate disclosure

Recommendations:

I. The Board should ensure that high standards of corporate governance are applied at all times

Recommendations

1. The Board is accountable to the investors for good governance.
2. The Board should ensure that sound management is in place.
3. The Board should discharge its functions soundly, honestly and professionally.
4. The Board should place emphasis on promoting transparency, good practices and conduct of business rules and efficiently manage conflicts of interest.
5. The Board should provide independent review and oversight, including effective oversight of delegated functions.
6. The Board should demonstrate leadership, integrity, ethical behaviour and expertise.

II. The Board should have good professional standing and appropriate experience and use best efforts to ensure that it is collectively competent to fulfil its responsibilities

Recommendations

1. The composition of the Board should be balanced so it can make well-informed decisions. Members of the Board should therefore have appropriate experience, with complementary knowledge and skills, relative to the size, complexity and activities of the fund.
2. The Board should ensure that it keeps abreast of relevant laws and regulations and that it remains vigilant about evolving risks and market developments.
3. The Board may call upon expert assistance and/or create special committees for the proper fulfilment of its duties. The establishment of special committees should not affect the collective responsibility of the Board.
4. The members of the Board are expected to understand the activities of the fund and devote sufficient time to their role.

III. The Board should act fairly and independently in the best interests of the investors

Recommendations

1. The Board should at all times put the interests of the investors first. In this context, particular care should be taken when affiliated parties are involved.
2. The Board should arrive at decisions taking into consideration, where possible, any broader potential impact of such decisions on the wider community and on market integrity.

IV. The Board should act with due care and diligence in the performance of their duties

Recommendations

1. Board members should participate actively at Board meetings.
2. The Board is responsible for the fund's strategy.
3. The Board should oversee the activities and the performance of investment managers and service providers.
4. The Board should ensure it acts on a fully informed basis.
5. Where required, the Board should seek external professional advice or information to assist it in its duties.

V. The Board should ensure compliance with all applicable laws and regulations and with the fund's constitutional documents

Recommendations

1. The Board should verify that adequate organisation, procedures and safeguards are established to ensure compliance with all relevant laws and regulations and with the fund's constitutional documents.
2. The Board should verify that regular monitoring of such compliance is in place and that it receives regular reports to that effect.

VI. The Board should ensure that investors are properly informed, are fairly and equitably treated, and receive the benefits and services to which they are entitled

Recommendations

Investor Information

1. The Board should ensure that the information received by the investors about the fund, particularly with regard to the fund's investment objectives, risks and costs, is true, fair, timely and not misleading.
2. The Board should ensure that investors are kept informed of matters relevant to their investment in a form and language that is clear and easy to understand.
3. In particular, the Board should ensure that information relating to the fund's financial situation and performance be prepared and disclosed in accordance with relevant accounting standards (e.g. Lux GAAP, IFRS) and applicable legal and regulatory requirements.

Fair and equitable treatment of investors

4. The Board should take into account the interest of all investors, in particular where Board decisions may affect investor groups differently.
5. The Board should ensure each investor complaint is reviewed and, if it is upheld, that redress is provided within a reasonable time.

Investors' interest

6. The Board should ensure that investors receive the benefits and level of services to which they are entitled as defined by law, contractual arrangements and the fund's constitutional documents.

VII. The Board should ensure that an effective risk management process and appropriate internal controls are in place

Recommendations

Risk management

1. The Board should ensure that an appropriate risk management system is in place which appropriately covers all types of risks including but not limited to investment risk.

2. The Board should ensure that the risk management function is adequately staffed, or properly managed when provided on any outsourced basis.
3. The Board should ensure that there is an adequate and effective investment risk management process. It should be appropriately documented and formalized and should be regularly reviewed and revised when required. The Board should ensure that it receives regular risk management reporting.
4. The Board should ensure that the investment risk management process covers not only derivative instruments but also the overall portfolio of the fund. Furthermore, the Board should ensure that they understand the impact of any complex financial products on the risk profile of the portfolio and the aggregate exposure of the fund to these products.
5. The Board should ensure that the investment risk management process is exercised independently of the investment management activity.

Internal controls

6. The Board should ensure that investment managers and service providers comply with Compliance and Internal Audit obligations.
7. The Board should ensure these Compliance and Internal Audit functions are independent of the investment and operational processes.
8. The Board should require direct and immediate reporting on any material compliance issues.
9. The Board should ensure that the investment managers and service providers have appropriate business continuity plans in place.

VIII. The Board should identify and manage fairly and effectively, to the best of its ability, any actual, potential or apparent conflict of interest and ensure appropriate disclosure

Recommendations

1. The Board should identify where its members' interests (including related party interests) might conflict with the interests of the investors.
2. The Board should define the means to avoid, manage or disclose conflicts of interest, protecting the interests of the fund's investors.
3. The Board should maintain sufficient autonomy to resolve conflicts of interest impartially.