

How to set up

# a bank

## Description

Banks (credit institutions) incorporated under Luxembourg law are "universal", that is, all-purpose: they are authorised to exercise any type of banking activity defined in the 1993 Law, including domestic and international activity.

## Authorisation requirement

The establishment of a bank in Luxembourg requires written authorisation from the Minister of the Treasury and the Budget, whose powers are delegated to the financial sector regulatory authority, the CSSF. The CSSF examines the application for compliance with the conditions laid down in the 1993 Law.

## Supervisory authority

Luxembourg banks are supervised by the *Commission de Surveillance du Secteur Financier* (CSSF). Regulatory and supervisory rules apply in the same way to all credit institutions established in Luxembourg, regardless of the nature of their activities.

## Legal and regulatory framework

The legal conditions governing the establishment of a Luxembourg bank are laid down in the law of 5 April 1993 on the financial sector, as modified.

## Capital base

Banks incorporated under Luxembourg law are required to have a subscribed capital of at least 8,700,000 euros, of which 6,200,000 euros must be paid in. These amounts may be modified by Grand Ducal regulation.

The shareholders' equity may not fall below the minimum level of share capital stated above. If the shareholders' equity does fall below this amount the CSSF can, if the circumstances justify it, grant a limited time extension for the credit institution to correct its position or cease its activities.

## Legal form

Banks must be incorporated in one of the following forms: a public law institution (*établissement de droit public*), a public limited company (*société anonyme*), a corporate limited partnership (*société en commandite par actions*) or a cooperative company (*société coopérative*).

## Central administration

The registered seat and central administration of a Luxembourg bank must be in Luxembourg, meaning that all accounting and administrative functions must be performed in the Grand Duchy. The requirements of a central administration are detailed in the IML Circular 95/120.

## Shareholders

Authorisation of a bank is subject to communication to the CSSF of the identity of shareholders or partners, either direct or indirect, individuals or legal entities, who hold a qualifying holding, or a holding which permits them to exercise significant influence over the conduct of its affairs, and the total amount of these holdings. The suitability of these shareholders or partners must be of a satisfactory level, taking into consideration the need to guarantee sound and prudent management of the credit institution.

The structure of the shareholding must be transparent in order not to impede the prudential supervision of the institution, especially, when applicable, the supervision of the group on a consolidated basis.

## Infrastructure

A credit establishment must have sound administrative and accounting organisation including a clear organisational structure with defined procedures and responsibilities. It should have adequate internal control processes for the monitoring, detection, management, and declaration of risks to which the bank might be exposed. It must have autonomous support functions in accounting and data processing, mechanisms for the control and security of its IT systems and an internal audit function adapted to its size and activities.

## Professional standing and experience

Authorisation is subject to the members of the Board of Directors, management and individuals responsible for supervision, as well as the shareholders or partners, providing proof of their professional standing. This reputation is assessed on the basis of past history and by any other evidence which shows that the persons concerned have a good reputation and present every guarantee of irreproachable conduct. The management of the bank must be exercised by at least two persons who are effectively authorised to determine general business policy. These persons must have the necessary professional repute and sufficient experience for the performance of their duties.

## External auditing

The annual accounts must be audited by one or more independent auditors who qualify in Luxembourg as “*Réviseurs d’entreprise*” and who have the professional experience necessary for the performance of their duties. Any change of external auditors requires prior approval by the CSSF.

## Other legal obligations

The bank must adhere to the deposit guarantee scheme in force in Luxembourg. The CSSF keeps an official list of the deposit guarantee schemes set up in Luxembourg which are recognised by it.

## Specialist service providers

A number of legal firms have specialist expertise in the creation of companies and can assist applicants during the process of setting up a credit establishment in Luxembourg.

## Authorisation procedure

Authorisation is accorded by the Minister of the Treasury and the Budget on the basis of a written application and following instruction by the CSSF.

The application must be accompanied by a full set of supporting documentation, together with a business plan identifying the type and volume of business to be undertaken and the administrative and accounting structures to be put in place.

It is customary for entities applying for authorisation as a credit establishment to submit an informal file to the CSSF containing information relevant to the evaluation of the request, before submitting a formal request for approval to the Ministry.

## Useful information sources

[www.cssf.lu](http://www.cssf.lu)

The Commission de Surveillance du Secteur Financier  
(Luxembourg financial supervisory authority)

[www.abbl.lu](http://www.abbl.lu)

The Luxembourg Bankers' Association