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**Société de gestion de
Patrimoine Familial (« SPF »)
The Luxembourg private
wealth management
company**

Preliminary remarks

The present document is published for information purposes and for the exclusive usage of its recipient. It is not a prospectus, an offer, an inducement or a recommendation. Its purpose is to provide a brief description of the characteristics and benefits relative to the creation and usage of private wealth management companies (SPF). It is also not intended to assess the legal and fiscal consequences for a natural or legal person concerned by the recourse to or involvement in a Luxembourg SPF (shareholder, board member, manager, etc.).

The present document does not provide an exhaustive review of the SPF, nor of all risks inherent to recourse to or involvement in the said company.

Moreover, we also draw your attention to the fact that you must carry out your own analysis of the financial, legal, accounting, tax and regulatory aspects resulting from recourse to or involvement in a SPF, such as to determine the benefits, inconveniences and consequences of such a company, and to assess the risks for yourself.

The present document is drafted in keeping with the legislative texts applicable on the date of its publication, and according to the doctrinal comments expressed in this regard. However, it does not constitute any establishment of a formal position that could result in any liability of FIDUPAR or BNP PARIBAS. It can be modified at the discretion of FIDUPAR, at any time and without notice.

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Introduction

The law of 11 May 2007 relating to the creation of a private wealth management company (*Société de gestion de Patrimoine Familial*, or “SPF”) is intended as an alternative for eligible investors to the H29 (the 1929 Holding Company regime) abolished by the law of 22 December 2006.

Our aim in this document is to present the SPF in a Question and Answer format designed to give a clearer view of its specific features and the mechanisms by which it works. The list of questions that follows is by no means exhaustive and will be regularly updated to include any questions you may raise or problems you may encounter in using this new structure on a day to day basis.

We remain at your disposal to answer to any questions you may have in that matter.

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1 In which cases the SPF can be a vehicle adapted for you ?

The purpose of the law of 11 May 2007 relating to the creation of a private wealth management company (hereafter “SPF”) is to create a legal framework for the management of private wealth. The SPF is designed as an investment company **solely for the use of natural persons engaging in the management of their private wealth.**

The SPF, as a legal person distinct from its shareholders, appears to be a highly useful mechanism for wealth, matrimonial and estate planning for natural persons:

___ **A simple, flexible wealth management vehicle that complies with EU regulatory requirements**

___ In particular, the SPF makes it possible to take advantage of the **limited liability of the legal person** and thus limit the possible recourse to third parties.

___ **A passive investment vehicle**

___ **A useful aid for estate and succession planning**

The SPF can be a very effective aid in the context of inheritance, whether you own an estate that is intended to span generations, whether you wish to facilitate the transfer of your assets by donating shares, find a way to manage joint ownership, separate capital and income...

This list is not exhaustive, the SPF is interesting in many other situations.

2 Why Luxembourg ?

— A strategic geographic situation

Member of the European Union and co-founder of the common market, the Grand-Duchy of Luxembourg is located at intersection of Europe, between Belgium, France and Germany and offers a good accessibility and modern infrastructures (in IT matters).

— An economical, political and social attractive situation

The laws and the close communication between the financial place and the authorities allow a great reactivity and a quick set-up of positive innovations.

— A tax and legal attractive framework

The simplicity, the efficacy and the stability of the laws allow Luxembourg to be competitive in comparison to other financial centers. The laws are in favor of the investment and of the economic development.

— A highly-qualified and multilingual staff

Luxembourg is a multilingual and multicultural country with high-qualified staff. Multilingualism is a massive and rich advantage in Luxembourg

This multilingual environment makes Luxembourg a very interesting and varied country – both on the level of business and business communication.

— Financial products changing and with a high added-value

The size of Luxembourg facilitates the exchange of information between the different actors and promotes the development of a wide range of competitive products.

— The financial sector (150 banks)

Luxembourg developed a know-how in the financial matters.

— A regulation's system efficient

The *Commission de Surveillance du Secteur Financier* (CSSF) strictly controls the wholeness of the financial sector which is in constant change, first pillar of the Luxembourg economy.

The CSSF participates to the expansion of the financial sector and to the enhancement of the regulations.

— The fight against money-laundering

Luxembourg has been one of the pioneers in the fight against money-laundering. Luxembourg laws settle strict conditions for the access to the financial sector, notably concerning the identity and the honorability of the shareholders and managers of the Professionals of the Financial Sector (PSF).

Luxembourg is member of the FATF (Financial Action Task Force on Money Laundering) / GAFI (*Groupe d'Action Financière*), inter-governmental body developing and promoting policies to combat money laundering and terrorist financing (www.fatf-gafi.org).

3 What are the permitted activities for a SPF ?

The SPF may carry out activities relating to the management of the private assets of natural persons, to the exclusion of any commercial or industrial activity.

Thus, its exclusive purpose must be the acquisition, holding, management and disposal of financial assets within the meaning of the law of 5 August 2005 on financial collateral arrangements and of cash and assets of any kind held in accounts.

___ Authorized activities

Acquisition and holding of shares: the SPF may hold shares (including a majority stake) in other companies provided that it does not interfere in the management of these companies.

The SPF may exercise its shareholder rights with respect to the shares held (voting rights and dividend rights) but under no circumstances may it exercise management functions in the bodies of the companies held.

Securities management: These securities include, in particular, all instruments relating to raw materials, precious materials, foodstuffs, metals or commodities.

In general, the SPF is allowed to invest in shares and other securities, bonds and other debt instruments, structured products and derivatives, to buy or sell options on securities, indices, currencies, futures, swaps, and to take currency positions.

Financing :

- The SPF may **subscribe to bonds issued by private companies**. The holding of bonds entitles the holder to remuneration in the form of interest. It is preferable to study this activity on a case-by-case basis.

- The **issue of a bond loan** is also possible. Debt financing is authorized in the SPF (debt ratio to be respected: 1/8 of the share capital).

- The SPF is not authorised to grant interest-bearing loans to companies in which it holds a stake. However, on an ancillary and purely free basis, the SPF may grant advances and loans or guarantee the commitments made by its affiliated companies.

___ Prohibited activities

Commercial and industrial activities are excluded from the SPF law.

Direct investment in real estate by an SPF is excluded from its corporate purpose. However, indirect ownership of a property is allowed, through a participation that would not be fiscally transparent.

The holding of patents and trademarks is excluded. Intellectual property rights are considered as a commercial activity and cannot be owned or managed by the SPF.

4 In which cases can a domiciliary be used ?

As the SPF does not carry out any commercial or industrial activity, it may be domiciled.

The use of a domiciliary agent allows you to benefit from the services of an experienced professional. Professionals in the Financial Sector, approved as domiciliaries, are subject to permanent supervision by the financial authority (CSSF) and to a strict legal and regulatory framework that protects the interests of their clients.

The domiciliary agent is subject to professional secrecy. He acts in contact with notaries, lawyers, bankers and other stakeholders under agreements signed with the client.

5 Who may constitute a SPF ?

The SPF law subjects the SPF to one of the following legal forms: limited liability company (*société à responsabilité limitée*), public limited company (*société anonyme*), limited partnership by shares (*société en commandites par actions*) or cooperative company organised in the form of a public limited company (*société coopérative organisée sous forme d'une société anonyme*).

The partners/shareholders will therefore meet two conditions, namely those of the SPF law and those of the law of 10 August 1915 on commercial companies as amended.

What are the conditions regarding the number of partners/shareholders?

	SA	Sàrl	SCA
Number minimum	1	1	2 with : <ul style="list-style-type: none">• Min. 1 unlimited shareholder• Min. 1 limited shareholder
Number maximum	unlimited	100	unlimited

Do the shareholders/partners have to meet regularly in Luxembourg? The annual general meeting and extraordinary general meetings must be held in Luxembourg, in principle at the company's registered office.

Who are the eligible investors ?

Investment in a SPF is open to eligible investors, i.e.:

- _ Natural persons managing their private wealth,

— Entities or intermediaries acting solely in the interest and on behalf of the private investors.

The beneficial owner need not necessarily be a shareholder: eligible investors also include intermediaries holding shares in the SPF on behalf of eligible individuals (on a fiduciary basis for example).

Each investor is required to declare in writing to the domiciliary or managers of the SPF that he meets the eligibility conditions set out above. The declaration must therefore be signed by the shareholders or the intermediary acting on behalf of the natural person.

Investors other than natural persons acting as part of their private assets must mention the beneficial owners and the contract under which they act for them.

A company whose corporate purpose includes a commercial or industrial activity may not be a shareholder of an SPF.

On the other hand, a company whose object would be exclusively limited to asset management and which would be held by natural persons could be a shareholder of an SPF.

The domiciliation agent, accountant or external auditor must certify that the SPF is held only by eligible investors. This certification is sent each year to the *Administration de l'Enregistrement et des Domaines*, the SPF control authority.

N.B. : If the conditions relating to the eligibility of shareholders are not met, the *Administration de l'Enregistrement et des Domaines* may decide to withdraw the benefit of the SPF's tax provisions against the defaulting company.

6 What are the legal formalities to be respected for the incorporation of a SPF ?

___ What legal form should be adopted?

The SPF must take one of the following legal forms: limited liability company (*société à responsabilité limitée* (Sàrl)), public limited company (*société anonyme* (SA)), limited partnership by shares (*société en commandite par actions* (SCA)), cooperative company organised in the form of a public limited company (*société coopérative organisée sous la forme d'une société anonyme*).

___ What are the conditions for share capital?

Questions	SA	Sàrl	SCA
What is the minimum subscribed share capital? Does it have to be fully paid up?	Capital min : 30.000,- Eur Subscription: 100%. Release: 25%.	Capital min : 12.000,- Eur Subscription: 100%. Release: 100%.	Capital min : 30.000,- Eur Subscription: 100%. • Release: 25%.
What are the types of shares?	Registered / bearer / dematerialised	Nominatives	Registered / bearer / dematerialised
Can shares be dismembered?	Yes	Yes	Yes
In which currency can the capital be expressed?	Any currency, including foreign currency, if freely convertible	Any currency, including foreign currency, if freely convertible	Any currency, including foreign currency, if freely convertible
Can share capital be variable?	No	No	No

___ What are the authorized contributions?

Contributions in cash and contributions in kind contribute to the payment of the share capital.

___ Can the securities be listed on the stock exchange?

Securities issued by an SPF may not be placed in a public offering or listed on a stock exchange.

___ Can we dismember the securities?

It is possible to split the securities, i. e. to separate bare ownership and usufruct, provided that both the bare owner and the usufructuary are eligible investors.

___ In what form should the deed of incorporation be drafted?

The SPF type company (SA, Sàrl, SCA, COOP SA) must be incorporated by notarial deed.

___ When is the company incorporated and deemed to exist?

As soon as the notarial deed of incorporation is signed, SPF-type companies acquire legal personality.

7 How the SPF is managed ?

___ What are the different type of management for a SPF ?

SA	Sàrl	SCA
<p>The management of a public limited company can be carried out according to two systems:</p> <p>The classic system with a Board of Directors (min 3 directors except for single-person SA for which there may be only one director)</p> <p>The two-tier system, consisting of a management board in charge of corporate management and a supervisory board whose mission is to exercise permanent control over the management of the management board.</p> <p>Possibility of delegate the management powers to a management committee or to a managing executive officer</p>	<p>The management is in charge of a Board of Managers or a single manager.</p>	<p>The management is in charge of a Manager or a Board of Managers, who are unlimited partners or not.</p>

___ Where should Board of Directors/Stewards meetings be held?

The domicile of any Luxembourg company shall be located at the registered office of the company, the registered office being presumed, in the absence of proof to the contrary, to coincide with the place of the registered office.

The meetings of the Administrative/Management Board should be held in Luxembourg and the effective seat of decisions should be Luxembourg.

___ Are the annual accounts audited?

A distinction must be made between supervisory auditors and approved statutory auditors (*réviseur d'entreprises agréé*):

The supervisory auditor is an organ of the company. The mandate of such auditor does not require any specific qualification or competence.

He is appointed/rejected by the General Assembly and this mandate may even be entrusted to a partner/shareholder. However, this function may not be combined with the mandate of director, member of the management board or member of the supervisory board of the same company.

At least one supervisory auditor must be appointed in the following cases:

SA	Sàrl	SCA
Always one minimum required	Min. 1 auditor for Sàrl > 60 partners	Always 3 auditors required composing the Supervisory Board

The external auditor responsible for auditing the annual accounts of commercial companies not regulated by the CSSF shall be chosen by the General Assembly from among the members of the *Institut des Réviseurs d'Entreprises*.

It is necessary to appoint at least one external auditor in the following cases (criteria defined by article 35 of the law of 19 December 2002 on the Trade and Companies Register and the annual accounts of companies):

SA	Sàrl	SCA
Exceeding 2 of the next 3 thresholds for 2 consecutive years:		
<ul style="list-style-type: none"> - Balance sheet total: 4.4 million Eur - Turnover: 8.8 million Eur - Average number of full-time staff employed during the year: 50 		

___ May the SPF be appointed as director in its subsidiaries ?

The SPF may not be a director of one of its subsidiaries. It is only allowed to hold an interest in a company if it does not interfere in its management.

The SPF can therefore only exercise its shareholder rights (voting rights, dividend rights) in the shares it holds.

8 What are the VAT requirements for a SPF?

The purpose of the SPF expressly excludes the exercise of any commercial activity.

The SPF is not subject to VAT and has no obligation in this respect.

9 What is the tax treatment of a SPF ?

___ To which tax(s) is the SPF subject?

The SPF is exempt from corporate income tax (IRC), municipal commercial tax (ICC) and wealth tax (IF).

The SPF is subject to an annual subscription tax of 0.25% of the following tax base:

- Amount of its paid-up capital,
- Increased, where applicable, by issue premiums and the portion of debt, in any form whatsoever, that exceeds eight times the paid-up capital and issue premiums, existing on 1 January or, for the year of its incorporation, existing on the date of incorporation.

The proceeds of this subscription tax may not be less than an annual amount of EUR 100,- and is capped at an amount of EUR 125.000,- per year.

The subscription tax is payable quarterly. In the year of its incorporation and in the year of its liquidation, the SPF pays the subscription tax in proportion to the number of days it existed during the quarter concerned.

___ Does the SPF benefit from double taxation agreements?

The SPF does not benefit from the provisions of double taxation treaties since it already benefits from a subjective exemption in Luxembourg.

The Luxembourg government therefore leaves foreign governments free to apply their domestic tax law to SPFs, and more particularly to its shareholders, who are resident in these States.

10 How the SPF is perceived by the other countries ?

The SPF is in compliance with the rules of the European Union. The SPF law has been prepared taking into account the European perspective, in order to avoid any infringement of Community rules, in particular those on illegal state aid or discrimination.

The SPF is not considered to be State aid for the following reasons:

- The SPF was designed as a passive investment vehicle. The mere holding of shares does not in itself constitute an economic activity, provided that there is no interference in the management of controlled companies, which therefore excludes the application of the State aid rules.
- The SPF is reserved for individuals acting within the framework of the management of their private assets. The state aid rules do not apply to natural persons.

However, the SPF is considered by some countries as a tax-privileged vehicle. It is therefore necessary to study the SPF on a case-by-case basis in the light of the CFC (Controlled Foreign Company) rules of the countries of tax residence of the beneficial owners.

11 About FIDUPAR

FIDUPAR was incorporated in the year 2000 by the contribution of the activity of the financial engineering departments of two major banks of the Luxembourg financial center, as Professional of the Financial Sector, and benefit of more than 50 years of experience in Luxembourg. Since 2014, FIDUPAR acquired its independence and is forming the Elate Group with its sister companies.

FIDUPAR is authorised by the Luxembourg authorities and regulated by the Luxembourg regulator of the financial sector ("*Commission de Surveillance du Secteur Financier*"). FIDUPAR as the following authorised status in accordance with the law of 5th April 1933 relating the financial sector, as amended :

- _ Commission agent, broker in financial instruments,
 - _ Registrar agent,
 - _ Corporate domiciliation agent,
 - _ Professional providing company incorporation and management services,
- and any other side business to the authorised status.

Focusing on our clients' needs, we have considerably developed with deep commitment to our historical values: reactivity, creativity, engagement and ambition, while maintaining high level ethics.

With a staff of multilingual employees specialized in different fields, we provide tailor made services for our international clients.

Our multi-disciplinary teams work in close cooperation with our clients in the realization of their projects.

FIDUPAR has more than 35 multilingual employees divided into multi-disciplinary teams.

FIDUPAR bases its know-how on an overall view and in-depth knowledge of the demands of its clients - private individuals, entrepreneurs, institutionals and international corporates.

FIDUPAR is specialized in the study and set-up of financial engineering projects including Luxembourg structures, specifically the creation of legal structures to hold and finance participations, patents, brands, securities, private equity, real estate and infrastructure. FIDUPAR has been providing central administration services including transfer agent for "*Fonds d'Investissement Spécialisés*" (FIS - Specialised Investment Funds) and for "*Société d'investissement en capital risque*" (SICAR - risk capital investment companies) since 2008, and for "*Fonds d'Investissement Alternatifs Réservés*" (FIAR – Reserved Alternative Investment Funds) since 2016.

FIDUPAR offers its expertise for the transformation and reorganization of companies and other structures, as well as in every form of administrative, account or tax services or the elaboration of financial solutions.

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