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Fund director appeals CSSF administrative measure

David Mapley, appointed director of LFP I SICAV SIF (“LFP 1”) by shareholders in late 2018 and charged with a mandate to recover defrauded and lost assets, has filed an appeal with the Administrative Tribunal against the CSSF's recent sanctions announced against him.

The appeal presents statements from the Cayman Islands Monetary Authority, rebutting the CSSF's claims. The sanctions imposed by the CSSF also lack a lawful basis and lack proportionality, demonstrating further their actions against a whistleblower.

The appeal also presents a detailed analysis and evidence of CSSF's past failings, indirectly implicating them in the calamitous investor losses. As a result, Mapley alleges the CSSF responded with punitive measures against such whistleblowing by him, based on a paucity of hard evidence. These alleged CSSF past failings were in breach of EU law MIFID II re. investor protection, and were also breaches of ESMA regulations governing the required actions of a National Competent Authority.

LFP I follows on from the Landsbanki Luxembourg and Luxalpha debacles where defrauded investors were apparently not supported by the CSSF when requesting protection and assistance. Mapley and his colleagues have initiated more than 25 civil and criminal cases in Luxembourg and Belgium (one of the alleged fraudsters was recently convicted in Belgium of other financial crimes), with more to follow, across 4 sub-funds of LFP I now designated Ponzi schemes (named after the notorious US swindler Charles Ponzi). Many big names are involved – ex-AIFM Alter Domus Management Company, ex-administrators Apex and EFA, ex-custodians ABN Amro, SocGen, KBL/Quintet, and the ex-auditor PWC – in addition to former directors and advisors to LFP I.

The report used in evidence supporting Mapley's appeal also covers 2 areas of regulatory concern re CSSF operation :-

Failure to carry its supervisory duties through:

- failure to enforce regulatory breaches in 2015/16/17, resulting in major investor losses
- lack of prudential supervision or on-site inspections after identified losses
- complete lack of response or action re multiple money laundering complaints filed, NAV calculation errors, or requests for intervention towards service providers for settlements

Obstruction in investigation and recovery efforts :

- explicit denial of past CSSF correspondence with the fund relating to criminal investigations
- refusal to support the provision of vital, missing 3rd party documentation
- forced attrition due to non-approval of existing service providers (administration, registrar and transfer agent, depositary, AIFM fees and directors expenses)
- adversarial stance to directors and to the going concern status of the fund, supposed interference in service provider contracts inducing breach of custodial services, explicit willingness to induce the fund into liquidation
- penalisation and suspension of directors on questionable grounds
- supposed concealment of evidential due diligence documentation on sub-fund irregularity

Despite 25+ legal filings, 4 criminal investigations initiated by directors, and multiple data breaches, the CSSF have not brought one sanction or regulatory action against accused parties (except the whistleblowing director...)

Unfortunately, a growing obstacle to the investigations lay with the CSSF, who have hindered LFP I's investigations into sub-fund frauds by unwillingness to assist in providing copies of bank statements, and by withholding key documents, including fund answers to CSSF enquiries into diversification breaches in 2015/16 prior to sub-fund collapses. In addition, numerous complaints have been filed with the CSSF re NAV Calculation Errors and NAV manipulation, Insider Trading, Service Provider failings, and more importantly the discovery of the 4 Ponzi schemes dating back to their 2013 launch. They remain unanswered as of the time of Mapley's suspension as a director.

Despite the extensive reporting to the CSSF of the 25+ legal complaints, with full dossiers of facts and supporting evidence, the CSSF has so far taken minimal steps in addressing these losses. As director of LFP I, Mapley became aware of investors appealing to the CSSF in the past, to be rejected as "well-informed" investors, despite the alleged frauds and service provider failings. In light of the obstructive tactics, Mapley led the effort to initiate complaints under Article 17 against the CSSF to ESMA, as well as writing to Finance Minister Gramegna citing concerns re lack of investor protection in Luxembourg. Furthermore, as Mapley was in charge of the representation with the media, his efforts resulted in a vocal press coverage of the LFP matter (sometimes to the displeasure of CSSF, i.e. the FT article headlined *Luxembourg regulator accused of failing to protect investors*)

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