

Luxembourg regulator accused of failing to protect investors

Complaint to Europe's top finance watchdog is blow to continent's biggest fund hub

yesterday



The directors of three collapsed Luxembourg funds have submitted a complaint against the CSSF to Esma © Bloomberg

Investors who claim they were defrauded out of millions of euros from a Luxembourg-based fund range have accused the grand duchy's financial regulator of prioritising promoting the country as a financial hub over protecting consumers.

The directors of three collapsed Luxembourg funds, who are seeking to recoup almost €100m, claim Luxembourg's financial regulator, the Commission de Surveillance du Secteur Financier, has obstructed their efforts to investigate wrongdoing and recover losses.

The directors of the group of funds, known as LFP I, have submitted a

complaint against the CSSF to the European Securities and Markets Authority (Esma), the body responsible for setting standards for financial regulators across the EU, accusing Luxembourg's finance regulator of failing to comply with its obligations under European law.

The criticism of the CSSF raises questions about the robustness of investor protection in Luxembourg, which is Europe's largest fund centre with €4.7tn of assets and is gaining further prominence as [UK managers shift](#) business there in response to Brexit.

In a letter to Esma seen by FTfm, LFP I director David Mapley said the CSSF's "marketing mission to promote Luxembourg as a financial centre" had undermined its responsibility to protect investors.

He accused the regulators of trying to quash the directors' investigations into mismanagement and fraud by the funds' previous managers and service providers in order to "force the LFP I [funds] to 'go away' and prevent any reputational risk".

The CSSF declined to comment on the case but said it acted with the aim of protecting investors.

Mr Mapley — who heads Intel-Suisse, a financial investigations and asset recovery specialist — started pursuing compensation for LFP I investors in 2017 and was appointed as a director in 2018.

His work — notably his multimillion-dollar lawsuit against Goldman Sachs on behalf of a hedge fund in 2010 — has earned him a reputation for ruffling feathers. He recently filed a police complaint against a website that contains allegations about fraud on his part, which he claims is part of a smear campaign instigated by the perpetrators of LFP I's collapse.

Mr Mapley has filed several criminal and civil complaints in connection with LFP I against companies including Luxembourg-based management company Alter Domus, custodian Société Générale and auditor PwC. He pointed to the way the regulator had ignored the directors' requests for historical fund information and withheld funding for the management of

two of the funds that now fall under its responsibility.

The CSSF's actions went against investors' interests and "are completely in contrast to that of a normal regulator upholding financial markets standards and integrity", he said.

Francis Hoogewerf, an investor in the Columna Commodities fund, one of the two LFP I funds that were suspended in 2016, told FTfm the CSSF had rebuffed him when he complained about his financial losses. In a letter to the investor, seen by FTfm, the regulator said it was not obliged to help him on the grounds that he was considered to be a "well-informed" investor.

It is not the first time the CSSF's conduct has come under the spotlight. Last year, an investor group representing unit holders in a Luxembourg-listed fund that invested in Bernard Madoff's \$50bn Ponzi scheme accused it of ["selectively" applying its rules](#) in an attempt to stay competitive.

A former senior global regulator who declined to be named said fierce competition between small jurisdictions such as Luxembourg, Malta, Cyprus and Gibraltar risked compromising investor protection.

The scramble for UK fund companies to set up in the EU following Brexit led to [scrutiny on Luxembourg and its biggest fund rival Ireland](#) amid fears they were undercutting one another on regulatory standards to attract business. This led to a move to [grant tougher powers to Esma](#), although the effort was later watered down.

The former global regulator said that until Esma had stronger intervention powers, it risked allowing "unfair competition between national regulators and a lowering of investor protection standards".