Luxembourg expands priority position for securitisations

Luxembourg, 17 January 2022 – With a revised and expanded law on securitisations, the Luxembourg Parliament is granting its domestic financial sector an important competitive advantage. "The new law could enter into force during the first half of the year", said Daniel Knoblach, Board Member at FAIR ALPHA. "This will serve to remove existing barriers and make Luxembourg law the most modern in the world."

Securitisation casts investment ideas into investable vehicles such as bonds, certificates or securitisation funds. "Many of the investment strategies that were uncharted territory once and that were introduced to the market via securitisation are common practice today", Knoblach explained. "The key is for assets to remain independent of issuers and their risks." This protects investors' interests while at the same time creating wide-ranging flexibility in the securitisation of assets and strategies. The law that is currently in parliamentary consultation includes, above all, the option to actively manage these investment vehicles.

"In 2004, Luxembourg already created a sound legal basis for such transactions with its Securitisation Act", said Knoblach. "Other securitisation locations, such as the Cayman Islands or the Channel Islands, do not meet the required high standards of transparency or security for many investors." It is no wonder then that Luxembourg is home to a large proportion of high-quality securitisations. "This advantage is now being secured and expanded", Knoblach pointed out.

Other states, such as Germany, do not have their own securitisation law so that the provisions of the various laws governing the financial market apply. In Switzerland, another major market for the sale of securitisations, the legal setup is similar: "The various laws have to be combined, which makes the process of securitisation very tedious and slow, just like in Germany", said Knoblach.

The law on securitisation in the UK is particular: "There is no uniform legal framework. In England and Wales, there are statutory provisions that are based on EU law", Knoblach illustrated the situation. For Scotland and Northern Ireland, on the other hand, different rules apply – just like for the Channel Islands, which have a special status within the UK. "This is where an extensive securitisation sector has formed in view of fairly limited legislation with relatively few obligations for issuers and relatively few rights for investors", said Knoblach. "Many investors, however, shy away from the lack of transparency and prefer to turn to Luxembourg: its legal certainty outweighs the price advantage in the Channel Islands."

This also applies to even more exotic securitisation locations such as the Cayman Islands. "There, investments are frequently only tax-driven", said Knoblach. "This is problematic because taxes are only one element in the overall view – and for many institutional investors, transparency and security are the key factors to consider."

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About FAIR ALPHA

FAIR ALPHA offers financial market solutions for (semi-)institutional investors and asset managers through its subsidiaries. Investment ideas and trading strategies are implemented in investable and custodial securities. In addition, the company pursues digital approaches, which focus on creating and issuing crypto assets (tokens) that are held in specific wallets. With the help of customised issuance vehicles, structures are created that exclude issuer risk. In each case, FAIR ALPHA assumes the entire value creation process ranging from product set-up to administration and ongoing life cycle management.

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