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CONTENTS

SPECIAL FEATURE

Stress
Management
p. 10



CHAIRMAN'S REMARKS

5
A WORD FROM THE CHAIRMAN

AMCHAM NEWS & COMMITTEES

6
NEW MEMBERS
22
ABAL: "MULTIPLICITY" IN ACTION
24
FINANCE: ONE-PAGERS
26
DIVERSITY: NEW CHARTER
28
MARKETING: GAME ON!

MEMBER SPOTLIGHT

14
CAPITALATWORK FOYER GROUP

INTEGRATION ISSUES

16
HOLIDAYS & TRADITIONS

INFORMATION TOOLBOX

18
ARE YOU COMPLIANT?
20
BUY-OUT & SQUEEZE-OUT RIGHTS

SPECIAL FEATURE *

10
STRESS MANAGEMENT

LUXEMBOURG NEWS

25
237TH MARINE CORPS BALL

COMMUNITY NEWS

30
ANNUAL FALL WELCOME
32
MOBILE PAYMENTS
34
ENTREPRENEURIAL STARTUPS

FIND OUT ABOUT OUR
UPCOMING EVENTS:



A WORD From the Chairman



Dear Colleagues and Friends,

Welcome to the Q4 issue of *Connexion*, the American Chamber of Commerce in Luxembourg news magazine! We have had a busy fall season, starting off with a launch event for our new Marketing Committee on gamification, held at and sponsored by our friends at Atoz. Following this was a great ComIT event on mobile payments, hosted and held at PwC. Then we had our launch event for the New Business & Entrepreneurship Committee, hosted and held at BGL BNP Paribas. It is frightening and not at all easy to take an idea and turn it into a successful business venture. With this new committee, we intend to provide help, encouragement and support to new or would-be entrepreneurs and businesses newly formed or new to Luxembourg.

Our guest speaker at our first ABAL luncheon was Mayor of Luxembourg City, Xavier Bettel. Our Fall Welcome, held at the U.S. Embassy, featured a welcome address by Ambassador Robert A. Mandell, a keynote address by our Minister of the Economy and Foreign Trade Etienne Schneider, and was sponsored for the third year in a row by Gary Kneip and his company, SecureIT.

AMCHAM, as you see, has a very strong program of events and activities featuring great content on timely subjects combined with super networking opportunities. In truth, we are only able to do this because of our strong membership and the outstanding partnerships we have with our member companies. AMCHAM has been—and always will be—a member-driven organization. We do good things because of the active interest, involvement and huge support provided by our members. My sincerest thanks to all our members for making us the largest and most active Chamber of Commerce in Luxembourg!

In the last issue of *Connexion*, we started talking about diversity as a necessary ingredient for sustainable success. AMCHAM, on behalf of all of its members, has been one of the first signers of the Luxembourg Diversity Charter. You will hear more about this over the coming months as our new Diversity Committee begins to roll out its program. Our first Diversity event in the New Year will be, as during the past three years, a Women's Board Pool event which comes from our long-term partnership with Maison du Coaching, Mentoring and Consulting (www.mcmc.lu). The event will take place on January 22, 2013, at the Luxembourg Chamber of Commerce.

Also concerning diversity, I am pleased to announce I have been elected President of the Luxembourg National Council for Foreigners. During my five-year term of office, I intend to give my full effort to encouraging a closer partnership between diversity and integration, working to build bridges of partnership, cooperation and mutual understanding between the various international communities in Luxembourg and our Luxembourg hosts.

We are busy—and you are busy. The international community and our life here in Luxembourg may often feel hectic and stressful. So be sure to take a look at this issue's Special Feature on managing stress, and remember to take a pause during the holiday season. And when you make your New Year's resolutions, dedicate yourself to just a few small changes to ensure you better manage the many stresses of your life and care for your health for the long-term. We want you to be happy, healthy and well—and to stick with us for a long time to come!

Happy Holidays!

With respect, appreciation and all my best,

A handwritten signature in black ink that reads "Paul Michael Schonenberg". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Paul Michael Schonenberg

Chairman and CEO

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Innova, one of the largest MMO games publisher in Russia and CIS, has started its activity in the EU.

Key Figures:

- Approximately 30% market share of Massively Multiplayer Online (MMO) game market in CIS countries
- Over 2 million active users
- 24/7 customer support
- Main game titles: Lineage 2, Aion, Point Blank



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MPLAW, Avocats à la Cour is a Luxembourg business law firm founded in July 2010. Our combined know-how, practical experiences in business and corporate law, commercial litigation and labor law enable us to provide integrated and full services to both corporate and individual clients. Our lawyers are fluent in several languages including English, French and German. A personal and confidential relationship with our clients remains one of our highest priorities. Then we build a unique team to find the best strategy and legal solutions. On August 2, 2011, the European Commission awarded MPLAW the contract N°07/2010/OIL named "Prestations de conseils juridiques". The contract aims to provide legal advice by qualified lawyers ("Avocats à la Cour") to agents of the European Commission and Institutions.

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Created in 1982, Pall Center was originally a petrol station. It was developed to be a regional retail shop close to people, the idea being to give to the region of Oberpallen and the nearby frontier region in general a meeting point to cover every need: from grocery shopping to fashion and design—shortly put, an attractive center that you should not miss. The ambition of the center is to maximally integrate with its environment. Pall Center has never stopped developing its philosophy regarding ecological material and best practices. Pall Center is a member of IMS Luxembourg and INDR, and its philosophy is based on essential criteria, i.e., authenticity, innovation, investigation, responsibility and *locavorisme*.



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Opened in 2008 and located in the center of Echternach, the oldest town of Luxembourg, the Trifolion - Cultural & Convention Center is the local, regional and cross-border meeting point for cultural events and the arts, conventions and society. The Trifolion houses a concert hall of sophisticated acoustics and a capacity for 700 as well as further halls and seminar and workshop rooms of a capacity for an audience of 300. The Trifolion is the main venue for the International Music Festival and the Echternach & Clearstream International Jazz Days. Moreover, it is also home of the European Union Baroque Orchestra (EUBO).

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STRESS



MANAGEMENT

By Paul Michael Schonenberg, AMCHAM Chairman and CEO; President of the Luxembourg National Council for Foreigners; Owner/Partner, Leadership Solutions Europe (a Luxembourg-based training, coaching and developmental mentoring company)

One of the factors of life confronting modern corporate men and women is the constant presence of stress. For many, this stress causes medical and mental health problems, seriously reduces levels of happiness and fosters a loss of work productivity. And—in the worse cases—stress kills.

Why—in an age where we have more material possessions and freedom from basic wants of food, shelter and physical survival—should stress levels be rising rather than falling, negatively impacting people and contributing to lower productivity, less happiness and ill health?

LET'S TALK ABOUT STRESS

Did you know that the human body is actually built to *profit* from stress?

Faced with danger, primitive man had two choices: to fight or to flee. In both responses, stress was a survival enhancer. Confronted with danger, the body responds by pumping adrenaline into the blood stream, which in turn speeds the heart rate, making more oxygen available for use by the muscles and enhancing the body's ability to turn fuel into energy. The result is an ability to run faster, lift more weight, fight harder, endure longer—all necessary enhancements which enabled primitive man to fight and win or to run and survive (to be able to fight another day).

This mechanism has worked just fine for most of the span of time during which humankind has inhabited the planet. It has been absolutely essential to the survival of our species, enabling our kind to successfully compete with bigger, faster and stronger competitors than we would have had we not been stressed.

STRESS IN MODERN TIMES

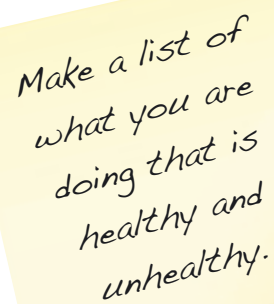
In modern times, however, humans have substantially less risk of being challenged by wild animals or even being attacked by our own kind. The social structures we have created and live in protect us from most of these life-threatening confrontations. It seems, therefore, that we shouldn't need to be as stressed—and we should much less need to initiate our stress responses.

Modern society, however, has created new stress inducers—and these are insidious because these stresses are relentless and often do not ever go away!

Think about it: there is not much fun to be had in being chased by a tiger who wants you for dinner—but when the tiger goes away, so does the cause of stress, and you can calm down. The adrenaline is no longer coursing through you.

Now take modern man confronted by stress at work; this stress may be caused by unceasing workload, difficult corporate policies and a relentless boss. It could be the case that the stress begins at waking in anticipation of the day ahead, continues during the car drive or other rush to work, further continues during a difficult day with many demands, continues again during a difficult commute home (where family challenges may cause different kinds of stress) and then you go to bed...only to start the process all over again the following day. Relentless, unending stress—day after day. It's no wonder then that some people develop coping mechanisms as a response: some drink, some take drugs, some overeat or eat too much sugar and fat.

Modern stress involves the same constant adrenaline coursing through the body, with the body always ready to fight or flee. But



Make a list of what you are doing that is healthy and unhealthy.

at the same time, the person impacted is sitting in an office, *unable* to fight or to flee. Under these circumstances, the stress-induced adrenaline—which was so helpful to the survival of primitive man—now causes the body to burn itself out sooner than should be the case. And, as mentioned earlier, stress can kill.

So, what are we to do? Are we doomed to this cycle? Will we all die younger?

RECOGNIZING STRESS FACTORS AND HABITS

Fortunately, there are ways to adapt and deal with stress, reduce its impact and even lower the amount of stress in life. Doing so can help you become more at peace within this new modern, corporate environment.

The first step is to figure out where you are and what your sources of stress are. Everyone is different (which is profoundly good, as the alternative would be very boring and unexciting!) Know yourself. Know your environment. What makes you happy? Angry? Sad? Stressed? Recognize and make a list of what you are doing that is healthy and unhealthy.

Once you know what makes you happy and what makes you stressed, how about trying to reengineer your life to reduce the stress sources and increase the things that make you happy?

Fat chance, you say? Don't be too quick here! Small changes incrementally and sequentially implemented can have a cumulative effect and make a big difference. A healthy lifestyle can start with one less cigarette a day, one fewer candy bar, a healthier lunch or dinner choice, substituting a glass of wine for a cocktail, using the stairs daily, and so on. You might consider doing 20 minutes of exercise, listening to relaxing piece of music daily for 15 minutes, buying yourself a pet—or even buying a convertible sports car and driving with the top down and music loud!

IMPLEMENTING CHANGES

Once you make this analysis and develop the subsequent changes you want to implement, start the process of implementing healthier choices in your life style. If you have difficulty doing the analysis, consider doing so in a peer group setting or among a circle of friends. You may also consider getting professional coaching or mentoring advice. While many people find they can figure this out on their own, many feel so trapped in their circumstances that they do not know even know where to start; hence, they need professional one-on-one coaching and mentoring support to bring about the needed changes.

Since I am writing this article, and have some experience with this, let me impart some advice on undertaking a course of changes that will help. The next pages offer suggestions for a stress reduction change regime, along with a mantra on which I base my life.

Make yourself stress resistant. Be happy. Live long and prosper!

Find a good cause.

Take time to meditate.

Stay well-hydrated.



Photos: Anita Dore

Suggestions for a Stress Reduction Change Regime*

- If you take recreational drugs, drink in excess or smoke at all, stop!
- Consider exercising daily for 20-30 minutes. Aerobic exercise, when properly done, releases endorphins that make you feel happy. Raise your heart rate to the point where you have difficulty talking, and maintain this pace by walking, jogging, stair climbing, bicycling, etc., for a minimum of 20 minutes daily, or at least several times spread out through the week.
- Consider weight training exercise to increase your muscle mass. Lifting light weights for three sets, doing 30-50 reps at a time, once every two to three days helps build muscle mass.
- Undertake a hobby, learn a language or musical instrument or do something you enjoy that takes your mind off work for one hour every day during the work week and even on weekends.
- Reduce your consumption of sugar—consider using a sugar substitute if you need the extra sweetness.
- Limit your intake of high-fat, high-sugar desserts.
- Take 15 minutes to meditate, stretch, perform tai chi or yoga, practice deep breathing or at least actively daydream.
- Stay well-hydrated: drink water often every day, and do your best to eat a healthy, balanced diet.
- Find a good cause which contributes to a better world and make a contribution of time and resources weekly.
- Read daily—and read widely to stay informed about current events, cultures, ideas.
- If the causes of stress are unacceptably high, develop and implement a plan to find a new job, partner, etc.

** It is strongly recommended that you check with your doctor before starting any exercise program.*

Read daily.

Be at
peace with
yourself...

...and the
world around
you.

A Daily Mantra

For today:

I will try to be the very best person I can be.

I will show kindness and understanding to those around me.

I will give help to those I can help.

I will forgive others (and myself).

I will not be afraid.

I will not be angry.

I will give thanks.

I will be happy, with myself and others.

I will be at peace with myself and with the world around me.

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INVESTING AND BEHAVIORAL FINANCE: An Everlasting Battle Between Logic and Human Demeanor

By Nathalie Hottua, CapitalatWork Foyer Group

“GREED IS GOOD.” IS IT?

The 1987 and 2010 Oliver Stone *Wall Street* films have shaped the famous sentence “Greed is good,” uttered by its main character Gordon Gekko (portrayed by Michael Douglas). Well, 25 years later, we know that greed is probably the main contributor to the financial difficulties that we are witnessing today and that we will probably have to deal with for many years, if not even decades.

Unfortunately, greed is not the only pitfall when it comes to investing money in the financial markets.

The decisions to purchase an asset are mostly based on optimism, excitement and finally euphoria in ever-climbing markets, and the decision to sell generally is initiated by anxiety, denial, fear, desperation, panic and finally capitulation in falling markets. Those feelings contribute to an accumulation of losses and frustration because assets are first purchased too expensively and then sold below value. But rarely do these pitfalls lead to an acknowledgement of personal responsibility or insight into investment techniques: the “guilty” ones are the “others” and are quickly identified (banks, media, consultant, etc). Rarely do investors assume responsibility for bad investment ideas themselves. The human being also seems to have huge difficulties to sell assets if this sale means realizing a loss. Looking at the past and the potential loss has a stronger grip on investors than looking towards the future and the potential of the investment. Call it hope or refutation—these final factors explain why a lot of investors’ portfolios still carry the collection of dot-com companies they bought in the beginning of this century.

The human being, while being the most intelligent creature that has ever walked this planet, seems to be unable to disconnect emotions from intellect. This is good news when it comes to our capacity of humanity, social behavior, teambuilding and helpfulness. However, when it comes to investing, a disciplined and rational behavior would lead to better results, especially on a long-term basis.

“BE FEARFUL WHEN OTHERS ARE GREEDY AND BE GREEDY WHEN OTHERS ARE FEARFUL.” —WARREN BUFFETT

To exit the vicious circle of emotional investing, there is no alternative than to revise established opinions and correct a financial behavior that has become a dangerous standard in an ever-accelerating world: short-termism.

Investment is a long-term business, business cycles change over the long term, so we should first of all get rid of short-term thinking in investing. For some investors, short-term thinking might be a necessity because savings are needed on a short-term basis; in this case the yield and performance expectations need to be revised. An attractive performance is always a consequence of long-term investing and should not be a result of short-term speculation.

There are investors who make money on speculation, but there are also people that win a lottery or in a casino. You hear about those cases, but rarely about all the others that lost. Chasing safety (short-term thinking) and performance (long-term thinking) is like trying to mix oil with water.

While the title of the book *The Intelligent Investor* by Benjamin Graham might appear a bit arrogant at first glance, it gives insight into how to become a better investor while focusing on rational elements and getting rid of the emotional part of investing. Benjamin Graham is considered the founder of the value investing approach and was the teacher of one of the most famous (and wealthy) investors of the world, Warren Buffett.

Intelligent investors consider their position with distance and a strong sense for economic reality. They do not speculate; they invest in companies and/or assets they understand. But the most important rule of a value investor: do not pay too much for an investment! But what does “too much” mean?

“PRICE IS WHAT YOU PAY, VALUE IS WHAT YOU GET.” —WARREN BUFFETT

Investment is rational and logical if the purchase price of an asset is below its intrinsic value.

How, and on which criteria, do we then evaluate the intrinsic value of an asset? Where do we get the necessary facts and figures in order to be able to analyze this asset? And how is it possible to remain cold-blooded while the markets run riot?

Investors like Warren Buffett have shown over the last decades that these behaviors are possible and are able to give an above-average return to the investor.

If it is so easy, why do people continue to invest emotionally? For most investors, building up savings means hard work and austerity; this, of course, creates a strong and disturbing emotional bond with the savings once they should be invested. Other reasons why people invest emotionally include the complexity of companies or the financial environment, the amount of data, the volatility of markets.

Bearing this knowledge in mind, the only remaining challenge is to find a trustworthy asset manager who is not focused on selling synthetic products but who is able to provide the right perspective by respecting economic reality.



WORKING IN LUXEMBOURG

This professional guide provides key information on the rules, practices and customs of the Luxembourg business environment, as well as the cultural context of the workplace, government and social support systems.

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LUXEMBOURG HOLIDAYS AND TRADITIONS

Days to Remember

Settling into a new country—and feeling at home there—is also a matter of opening up to different traditions. In Luxembourg, this might mean burning crosses and blowing into ceramic birds.

By Neel A. Chrillesen

Photos: Anita Dore

LIICHTMËSSDAG

It seems February 2 is celebrated throughout the world but not always for the same reasons—it may be for Groundhog Day, Candlemas, Brigid's Day, Chandeleur or Imbolc. But in Luxembourg, *Liichtmëssdag* is celebrated. As often occurs, a traditional pagan celebration turned Catholic—but the core purpose remains of celebrating light. Children walk from house to house carrying lanterns and chanting an old song, begging for lard and peas. Nowadays, however, what they really hope for is candy and money.

BUERGBRENNEN

The first time you witness this tradition, it might be a disturbing experience—especially if you don't know what it's about! It usually starts out with a torchlight procession through villages leading to a bonfire, on top of which is placed a gigantic wooden cross or another symbol. This burning of crosses happens on the first Sunday of Lent, but that is about *all* it has to do with religion. It's more of a persistent pagan tradition symbolizing the burning of winter and the triumph of spring. Around the bonfire, you're likely to find food stalls selling mulled wine, *Bouneschlupp* (a typical Luxembourgish green bean soup), *Gromperekichelcher* (potato pancakes) and other Luxembourgish specialties.

CARNIVAL

Never ones to say no to a party, Luxembourgers are pretty fond of celebrating carnival (Fuesent) anytime between *Liichtmëssdag* and *Ashermëttwoch* (Ash Wednesday). Colorful parades, masquerade balls and a variety of donuts with more or less enchanting names (*Nonnëfäscht*—or “nuns' farts”—being one of them) are part of the deal and, of course, something must also be burned! Many therefore go to Remich on Ash Wednesday to see the traditional burning of *Stréimännchen* (straw man)—once again, a symbolic burning of winter.



Buergbrennen

ÉMAISCHEN

No need to worry about missing out on Easter eggs, bunnies or bells—they're plentiful in Luxembourg too! However, you might want to embrace a new Easter tradition: *Émaischen*, which takes place on Easter Monday in Luxembourg City and in Nospelt. The key element of these two pottery-dominated Easter markets are the *Péckvillercher*—ceramic whistles in the shape of a bird. A must-buy (and a must-blow-into-until-the-sound-becomes intolerable).

OCTAVE

Octave is considered the most important religious event of the year, stretching from the third Sunday after Easter to the fifth and honoring Notre Dame de Luxembourg. Pilgrims from Luxembourg and bordering regions in Belgium, France and Germany gather around the city and walk in processions to pray at the Cathedral where various masses are held. At the end of Oktav, a statue of Mary is carried through the city. A special market (*Oktavsmäertchen*) also takes place during this period on the Place Guillaume II.

GËNZEFEST

When Scotch Broom covers the Oesling hills with its yellow flowers, it's time for Gënzefest. To take part in it, head to Wiltz on Whit Monday, where a parade and other celebrations in honor of past agricultural traditions take place.

HOPPING PROCESSION

The Hopping Procession (*Sprangprozession*) takes place in the medieval town of Echternach every Whit Tuesday and is so unique that it has been included in UNESCO's convention for the safeguarding of intangible cultural heritage. Documented since the year 1100, it has been banned several times for its “pagan elements” but has always survived. The procession begins early in the morning in the presence of high ecclesiastical authorities. Singers recite litanies and then some 8,000 dancers take over, “hopping” one step back then two steps forward (which is why the expression “the Echternach Step” is frequently used to refer to politicians who cannot make up their minds).

NATIONAL DAY

While most national days mark a significant historical date for a country, Luxembourg celebrates its national day on the birthday of the Grand Duchess or Duke. For some time it was celebrated on January 23 (Grand Duchess Charlotte's birthday), but was moved to June 23 in 1962 to secure better weather for the festivities. Ever since, no matter when they were born, sovereigns have celebrated their birthday that day. Merriment starts on the evening of June 22 with torch-light parades, concerts, balls and extensive fireworks on the Pont Adolphe in the city. The following day is more solemn, with a military parade, a canon salute across the city, a Te Deum mass in the Notre Dame cathedral and services in most of the country's churches.

MOTHER'S DAY

In Luxembourg, it takes place on the second Sunday of June.

SCHUEBERFOUER

The annual Luxembourg City fair starts around August 23 and goes on for three weeks. It includes close to 200 attractions (many of them snack bars and restaurants) and is the biggest fun fair in the country. It's also by far the oldest—in 2013 it will be the 673rd edition! The opening of the fair traditionally involves the mayor and a flock of sheep, which reflects its origins as a farmers' fair. Eating a *Gromperekichelcher*—a deep-fried, herby potato cake—is a tradition at the *Schueberfouer*.

WINE AND GRAPE CELEBRATIONS

In autumn, Luxembourg celebrates grapes; in spring, wine. One of the bigger "grape celebrations" takes place in Grevenmacher in September, complete with a parade and election of a wine queen. A trip to Schwebsange is usually also fun: the water in the fountain is replaced by wine...

KIERMESMÉINDEG

The first Monday of September is *Kiermesméindeg*. It is more commonly known as Braderie, which has occurred the last 83 years. Around the central train station and in the city center of the capital, close to 400 sellers trade off their stocks at tempting prices. Streets are closed off to house the five kilometers of stalls, so traveling by foot is the best way to get around town that day.

JOURNÉES DU PATRIMOINE

Every year during September and October, Heritage Open Days are organized throughout the country, making it possible to visit historical sites for free, many of which are normally closed to the public. This is a great hands-on opportunity to get to know Luxembourg's history, as a number of free guided tours are organized concurrently.

FATHER'S DAY

In Luxembourg, it takes place on the first Sunday of October.

SAINT NICHOLAS

In Luxembourg, they call him *Kleeschen* and, according to the legend, he descends on the night of December 5 with his present-carrying donkey and his servant, *Houséker*, leaving gifts for the children who have been good, while Houséker whips the naughty ones! Luxembourgish children leave their slippers in front of their bedrooms for Saint Nicholas, and one of the things they're sure to find inside them on the morning of December 6 is a *Boxermännercher*—a brioche pastry in the shape of a man (available in bakeries weeks before and after *Niklosdaag*).



Schueberfouer

KRËSCHTMAART

Getting into the holiday spirit is not a problem in Luxembourg, where lights and Christmas markets start flourishing long before November is over. The *Krëschtmaart* on the Place d'Armes in the city is one of the most popular ones; there you'll find a cozy atmosphere, music, wooden cottage stalls with Christmas gizmos and delightful, soul-warming food and drinks. Drinking *Glühwain* (mulled wine) with your *Mettwurscht* (local sausage) or *Gromperekichelcher* is practically compulsory. A Christmas parade is also part of the season's pleasures. Christmas markets can be found in many other places too, such as Vianden, Differdange, Dudelange, Esch-sur-Elzette and Remich.



Krëschtmaart

2013 PUBLIC HOLIDAYS

January 1	New Year's Day
April 1	Easter Monday
May 1	International Worker's Day
May 9	Ascension Day
May 20	Whit Monday
June 23	National Day
August 15	Assumption of Mary
November 1	All Saints' Day
December 25	Christmas Day
December 26	Second Christmas Day

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Are You Compliant?

By Dean T. Smith, Partner, Cadesky and Associates LLP & Former Tax Committee Chair of AMCHAM Canada

On July 18, 2008, the U.S. Senate Permanent Subcommittee on Investigations issued a report titled "Tax Haven Banks and U.S. Tax Compliance" in which it estimated that 100 billion USD in tax revenue was being lost each year through bank misconduct. The report was the result of a six month bipartisan investigation into UBS AG and the Lichtenstein Bank (LGT). Congress and the U.S. Internal Revenue Service (IRS) have since implemented new laws and procedures in an attempt to curb offshore tax evasion. One such example is the introduction of the Foreign Account Tax Compliance Act (FATCA). Many U.S. taxpayers who reside outside of the U.S., however, are completely unaware not only of these new rules, but also of what their filing obligations are in general.

The National Taxpayer Advocate's 2011 annual report to Congress (the latest report for which filing data is available) states that in 2009 the IRS received 858,760 Form 1040s with foreign addresses. With an estimated 5 to 7 million U.S. citizens residing outside of the U.S., that implies a compliance rate between 12.27-17.1%. Of those who filed returns, 88% owed no U.S. tax because of the foreign earned income exclusion, and 3% owed no U.S. tax because of foreign tax credits.

U.S. citizens are required to file an income tax return and certain information returns, regardless of where they live in the world. Other taxpayers, such as green card holders and resident aliens, may also be required to file. This does not mean the taxpayer will necessarily incur any U.S. taxes, only that they have a various filing obligations. As a result of the increased IRS enforcement, however, many taxpayers may incur significant penalties for failing to file their tax returns and information returns even though no U.S. taxes may be owed.

Two forms in particular give rise to surprising, and harsh, potential penalties: Treasury Form TD F 90-22.1, "Report of Foreign Bank And Financial Accounts" (FBAR) and IRS Form 8938, "Statement of Foreign Financial Assets".

The FBAR is not new but it has received increased scrutiny and importance since enforcement was transferred from the Treasury Department's Financial Crimes Enforcement Network (FINCEN) to the IRS. An FBAR is not part of the taxpayer's tax return but is a separate filing that must be submitted to the Treasury Department in Detroit by June 30 following each calendar year. The FBAR is required to be filed each year if the filer has a direct interest in, or

signing or any authority, over non-U.S. financial accounts which, at any time in the year, exceed in aggregate 10,000 USD. The penalty for a willful violation is 100,000 USD or 50% of the highest account balance (whichever is greater), per account per year. In addition, criminal penalties can be imposed. The penalty for a non-willful violation could be 10,000 USD per year.

Form 8938 was introduced with the 2011 tax year and forms part of the filer's tax return. Its implementation is one piece of FATCA. Since the data on the FBAR is not shared with the IRS, Congress was concerned that there was still an opportunity for tax avoidance. Form 8938 is meant to close that loophole. In addition to direct financial accounts, Form 8938 reports financial assets. Such assets include shares in non-U.S. private companies, interests in non-U.S. deferred compensation plans, interests in non-U.S. trust, etc.

The form must be filed if non-U.S. financial assets exceed 400,000 USD at the end of the year or 600,000 USD at any time in the year (for married filers living abroad). If you are not filing a joint return the thresholds are 200,000 USD and 300,000 USD, respectively. There are lower thresholds for taxpayers who reside in the U.S. The penalty for non-compliance is 10,000 USD.

Investments in non-U.S. funds may also give rise to increased compliance and unexpected tax burdens. In general, foreign investment funds may be classified as passive foreign investment companies (PFICs). The PFIC legislation contains anti-avoidance rules designed to prevent U.S. taxpayers from deferring U.S. tax or sheltering non-U.S. investment income. Examples of investments that may be caught under these rules are SICAVs or *fonds commun de placement*. Form 8621, "Information Return by a Shareholder of a Passive Foreign Investment Company or a Qualified Electing Fund", may be required to be filed to report the holding of each specific investment. Penalties may arise for failing to file the form and for not making elections where appropriate.

Readers are advised that they should review their investment holdings with their tax and investment advisors to ensure that their investment strategy does not lead to unexpected U.S. tax costs, obligations and reporting requirements.

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Buy-out & Squeeze-out Rights Outside the Context of a Takeover Bid

By *Stéphane Braun, MNKS*

On July 21, 2012, the Luxembourg Parliament adopted a law on mandatory "Squeeze-Out" and "Buy-Out" of securities¹ (the "Securities") which are or were admitted to trading on a regulated market² (a "Regulated Market") or were subject of a public offer (the "2012 Law"), which will come into force on October 1, 2012.

At first glance, one may wonder why the Luxembourg legislator is creating new "Squeeze-Out" and "Buy-Out" procedures, when those mechanisms already exist under the Luxembourg Law of May 19, 2006 on takeover bids.

The main contributions of the 2012 Law are twofold. First, the new "squeeze-out" and "buy-out" procedures as well as the notification and information requirements apply outside any tender process by way of a takeover bid. Secondly, as outlined below, these new rights and obligations, apply not only in respect of securities which are admitted to trading on a Regulated Market but also in respect of securities which (i) were admitted to trading on a Regulated Market or (ii) were the subject of a public offer within the last five years.

SCOPE OF APPLICATION OF THE 2012 LAW

The 2012 Law applies to companies having their registered office in Luxembourg and whose all or part of their securities:

- i. are admitted to trading on one or several Regulated Markets in one or several Member States of the European Union; or
- ii. were admitted to trading on a Regulated Market in one or several Member States within the last five years; or
- iii. were the subject of a public offer within the last five years, triggering the obligation for the company to publish a prospectus pursuant to the Prospectus Directive³ or being exempted from that obligation pursuant to Article 4, par. 1 of the Prospectus Directive.

RIGHTS AND OBLIGATIONS OF MINORITY SHAREHOLDERS AND MAJORITY SHAREHOLDERS

1. Notification Obligations Imposed on Majority Shareholders

According to the 2012 Law, a "Majority Shareholder" means any natural or a legal person, which, as a result of the acquisition by itself or by persons acting in concert with it, holds securities which,

added to any existing holdings of those securities by the Majority Shareholder and persons acting in concert with it, directly or indirectly give the Majority Shareholder at least 95% of the share capital carrying voting rights and 95% of the voting rights of a company.

Conversely, a "Minority Shareholder" means any remaining shareholder holding less than 95% of the share capital carrying voting rights and 95% of the voting rights.

According to the 2012 Law, within four business days, any holder of securities shall notify both the company and the Luxembourg regulator of the Financial Sector (the "CSSF") (i) when becoming a Majority Shareholder or (ii) when, whilst being a Majority Shareholder, the percentage of securities owned by that shareholder falls below or rises above one of the above-mentioned thresholds.



Stéphane Braun

Upon receipt of this notification, the Company shall, within three business days, publish the information received in a manner ensuring fast access to such information and on a non-discriminatory basis by using media that can be reasonably expected to ensure an efficient disclosure of information to the holders of Securities.

2. Squeeze-out and Buy-out Procedures

The 2012 Law creates a squeeze-out right in favor of the Majority Shareholder and a buy-out right in favor of Minority Shareholder subject *inter alia* to the following conditions:

- both the squeeze-out and the buy-out procedures shall be exercised at a “fair price based on objective and appropriate methods used for asset sales”;
- the Majority Shareholder shall inform the CSSF beforehand of its decision to launch a squeeze-out procedure and shall commit to complete the squeezing out process. The Majority Shareholder shall then inform the company and publish its decision; and
- any Minority Shareholder shall notify the Majority Shareholder, the CSSF and the company concerned of its decision to launch a buy-out procedure.

PENALTIES

Non-compliance in any way with the above requirements may be subject to an administrative fine of between 125 EUR and 125,000 EUR.

Any person who knowingly gives or discloses incomplete or incorrect information relating to the holding of securities or a squeeze out or buy out procedure may be subject to imprisonment of between eight days to five years and/or a fine of between 251 EUR and 125,000 EUR.

NOTES

1. Securities to which voting rights are attached.
2. A regulated market within the meaning of Directive 2004/39/EC on markets in financial instruments.
3. Directive 2003/71/EC of the European Parliament and of the Council of November 4, 2003, on the prospectus to be published when securities are offered to the public or admitted to trading implemented into Luxembourg law by the law of July 10, 2005, as amended.

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Mayor Bettel Wants to See “Multiplicity” in Action

At the October ABAL lunch event on Monday, Luxembourg City Mayor Xavier Bettel presented some of the latest building projects in the capital, also addressing some of the challenges the sprawling city is facing.

By Cordula Schnuer, wort.lu/en

Photos: Robert Prendergast

Since the 1970s the capital has seen a big increase in population, climbing from just over 76,000 inhabitants to over 96,000 in 2011. The mayor also revealed that the 100,000th inhabitant should be registered over the coming weeks.

While the population has been climbing, the foreign population in the City has also been increasing from just over a quarter in 1970 to 66 percent last year.

In addition to this increase in population, more workers are flocking to the capital, with the population of Luxembourg City roughly doubling during working hours.

Speaking to an audience of over 90 people, Bettel commented that both these aspects placed particular challenges on the capital. While Luxembourg had to live up to the expectations of being a European capital, as well as ensuring a thriving business sector, it also faced more particular challenges, such as housing, integration and transport.

“MULTIPLICITY SHOULD BE A REALITY”

Integration, the mayor pointed out, does not just involve integrating foreigners, but also people with disabilities, as well as the financially or socially disadvantaged.

In a bid to avoid the ghettofication of parts of the center, Bettel said it was important to build smaller support structures in different parts of town, bringing people from different spheres together.

But, while the mayor conceded that integration was not an easy issue to tackle—not least because of Luxembourg’s language problem—he also criticized the fact that foreign communities tended to set up separate clubs and organizations.

He pointed out that especially for children and teenagers, who often go to international schools even further separating them from the local community, it was important to create an environment where they can get involved, maybe even learning Luxembourgish at the same time.

Parallel societies, in any way, were not the right way forward, Bettel said, adding that the City's slogan Multiplicity "sounds nice, but it should be a reality."

URBAN DEVELOPMENT UNDER CONSTRUCTION

It's not just the people living in Luxembourg the mayor wants to see better integrated, but also the commuters who cross the borders of the country every day. Through initiatives such as Summer in the City or this year's outdoor cinema season, the mayor hopes to convince commuters to spend a few more hours in Luxembourg after work, rather than rushing home.



Luxembourg City Mayor Xavier Bettel and Paul Schonenberg (AMCHAM)

Finally, Bettel offered a sneak peek at some of the building projects happening in Luxembourg at the moment. While most locals are by now familiar with the plans for the Royal Hamilius and the Ban de Gasperich, which are already being put into action, the mayor also presented projects which paint a different view of Luxembourg's center for the future.

From a reorganization of the Place de l'Etoile to creating a traffic-free zone outside the central train station and new green spaces in Bonnevoie and Hollerich, there are still plenty of plans for the City. And while not all of them will see the light of day, the urban development of the country's capital is far from finished.

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One-pagers to be Launched on Top 10 Legal Issues

By Henk van Eldik, Financial Services Committee Chairman

The Financial Services Committee (FinCom) meets every quarter to discuss the various developments in the financial industry that are impacting our members. It also decides which topics it would like to bring forward to the AMCHAM community and sometimes also to the members from the funds and banking associations. When the subject covers other elements (e.g., labor or information issues), it works together with the other AMCHAM committees like HR or IT. In the past, the committee has generally done this through evening seminars.

Some of the issues addressed in the past include corporate governance and anti-money laundering. We have also brought philanthropy closer to the community—and people have already asked us if we will hold a third session on this topic. We have also been involved in lobbying efforts on, for example, ETFs and FATCA, during which time we cooperated with other associations in Luxembourg and also shared our concerns with the U.S. Ambassador and the AMCHAM headquarters in the U.S. In addition, two years ago we interviewed CEOs to get their views on the opportunities and threats of Luxembourg; this was followed by an evening seminar titled Luxembourg 2015. One month thereafter, it was announced that direct flights between Luxembourg and Gatwick would recommence.

When it comes to specific subjects like UCITS, ALFI as a fund association, as well as auditors and lawyers as specialists, are better positioned to dive deeply into the topic. However, there are also situations in which the discussion can remain at an executive level, span across different industries and include the point of view of the U.S. In these situations, FinCom is the appropriate platform.

At last year's winter meeting, we started a discussion on how we could inform members about the tsunami of legal/regulatory issues that are impacting the Financial Services industry. We wanted to share our committee's knowledge to give some insights on the main legal/regulatory issues of which our AMCHAM community should be aware, what those issues are about and what their timing and milestones involve. As many of us have headquarters, directors or board members in other parts of the world, it should also be a briefing document that could be forwarded to those bodies or individuals.

As a result, we decided to write one-pagers on the top 10 legal/regulatory issues impacting the Financial Services industry. A one-pager is short enough for people with little time who only need a high-level overview.

Each document covers the main elements:

- What is the issue/regulation about?
- What is it trying to achieve?
- Is now the time to act?
- Other key information

So here are the top 10 legal/regulatory issues selected, written by FinCom members

1. FATCA
2. MiFID 2
3. AIFMD
4. Solvency 2
5. UCITS V
6. Basel III
7. EMIR (OTC derivatives)
8. Shadow banking
9. T2S
10. Savings directive for insurance companies

The documents will be published soon on the AMCHAM website where they may be downloaded for use by members.

A special thanks goes to Francis Kass (Arendt & Medernach), Justin Griffiths (Deloitte), Marty Dobbins (State Street), Emmanuel Dolle (KPMG), Frederic Gielen (Advantage Reply), Bernard Lhoest (Ernst & Young) and Jean Brucher (Brucher Thieltgen & Partners) for their contributions to the one-pagers. A very special thanks to Steven Libby (PwC) and David Micallef (Bank of New York) for masterminding this and writing a number of the issues.

The 237th Marine Corps Birthday Ball

Source: U.S. Embassy

The 237th annual Marine Corps Birthday Ball will be held at Casino 2000 on November 30, 2012.

The Marine Corps detachment at the U.S. Embassy Luxembourg cordially invites you to experience one of our finest traditions. The event will include a dinner, dancing, birthday cake, ceremony—and the Marines!

The reception and cocktails will begin at 7:00 p.m. Beer, wine, crémant and juice are included in the price of the ticket. The meal choices are rump steak, salmon or vegetarian; if you are interested in a vegetarian meal, please let us know upon purchase of your ticket.

Tickets will be on sale until November 20 for 75 Euros each.

To get your ticket(s):

A Marine will be present at the U.S. Embassy Luxembourg to sell tickets (Tel.: +352 460 123 ext. 2221). You may email the Detachment Commander (mcesgdetcmdrluxembourg@state.gov) or Cpl Pierre (PierreRJ@state.gov) if you are unable to purchase tickets at the Embassy or have a special request.

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We hope to see you there for a grand and convivial evening!



Photo: U.S. State Dept.

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Diversity and Integration Charter

One of the great strengths of Luxembourg is its multi cultural, multi-lingual society. At the same time, this creates enormous challenges for ensuring the integration of all these diverse, valuable groups of people. For this reason, the AMCHAM Diversity Committee and its partners elsewhere in Luxembourg have put much effort into developing a positive message to help us all move forward and have therefore agreed to adopt and support the following charter.

By AMCHAM's Diversity Committee

The government and citizens of Luxembourg have given us, foreigners, very warm welcome and hospitality. We are privileged to be able to live and work and raise our families in this beautiful and hospitable country. We sincerely appreciate and thank the government and citizens of Luxembourg for all this kindness and hospitality.

In return, the largest part of this international community in Luxembourg has added and adds great value. We make a big contribution to the economic well being and prosperity of Luxembourg by doing the full range of jobs from street workers to CEOs. We perform jobs which insufficient numbers of local persons are appropriately qualified or interested to do. We also count among our numbers, entrepreneurs who create and run new companies thereby generating additional tax revenue and employment benefiting all of the inhabitants of Luxembourg. And through our music, food, culture and language, we add richness for all Luxembourg inhabitants to enjoy. We are important to Luxembourg...as Luxembourg is important to us.

As important contributors to Luxembourg's economy and society, we want exactly the same things as the local population: the opportunity to work hard and be successful; equal and fair access to employment, housing, schools and medical care; the possibility to live our lives peacefully and well with family, friends and good neighbors of all cultures and nationalities.

That said, we all, citizens and non-citizens alike, acknowledge there are challenges to achieve an appropriate degree of integration. While multilingualism and multiculturalism are tremendous assets

for Luxembourg, they make integration a complex challenge: both with regards to the education of the young and with regards to the integration of the many and diverse foreign communities with each other and with the local population.

In fact, rather than integrate directly, there is a very strong tendency for all of our communities to stovepipe within themselves and create parallel structures bound by culture and language, rather than participate and embrace integrated structures. We all, citizens and non-citizens, tend to stay within our individual cultural-linguistic comfort zones. We live parallel lives. This, while understandable, is not fully desirable—and potentially harmful to the long terms objectives of integration.

We, the international inhabitants of Luxembourg, undertake to make greater effort to more fully integrate and join in solidarity with the citizens of Luxembourg. We commit to better communication and more involvement together, including greater efforts to learn the five principle languages used within the linguistic landscape of Luxembourg: English, French, German, Portuguese and Luxembourgish. We fully commit to the concept of a diversity melting pot wherein the contributions of all and the richness of each ensures greatest benefits for each and all.

We invite the citizens and non-citizens of Luxembourg to partner together on this journey. Confronting the challenges and carrying the burdens together, we will make a better future for each and all of us and for the generations to come.



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Transfer pricing | No borders

Nicolas Gillet
Partner, Transfer pricing
Ernst & Young, Luxembourg
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Gaëlle Aubery (Big Fish Europe), Troy Bankhead (KNEIP), Amy LaThanh (Kabam)

GAME ON!

Business Growth Lessons from the Gaming Revolution

By Geoff Thompson, *The Luxembourg Chronicle*

Photos: Robert Prendergast

AMCHAM Luxembourg recently held its first Marketing Committee event at Atoz. Troy Bankhead, Head of Marketing & Communication at KNEIP and Chair of AMCHAM's Marketing Committee, kicked off the event by offering a compelling example of the prevalence of gaming: while there were 1 million Apple iPhones sold on the first day of its release, 6.5 million units of *Modern Warfare 3* were sold when the game was first launched.

The gaming industry is indeed large—even larger than the Hollywood movie business—and this explains why other industries are looking into the potential of gaming for new ideas. Gamification is one way in which organizations are using gaming concepts to improve marketing strategies, among other things. Bankhead highlighted several examples of companies using game dynamics to support their activities in, for example, customer support and internal communication, in everything from offering rewards for achievements to issuing reminders. The common issues are engagement and relating to customer communities.

Amy LaThanh, Marketing Manager at Kabam, explained Kabam's aim to revolutionize how people play and pay. The company focuses on adult males between 22-35 years old, and it is developing long-term franchises for sustainable growth. For example, it relies on email communication for engagement; these emails contain specific tips on how to achieve more in the process of game playing.

Gaëlle Aubery, European Marketing Director at Big Fish, also provided her insight from her experience on gaming. Big Fish has over 3,000 game titles in its portfolio, and it differentiates games

with a very high player value and others with hidden values, which tend to be very popular with females aged 35+. Big Fish's philosophy is to provide their players with the best experience possible from the very first game they play—this tends to trigger the first purchase. Big Fish puts a premium on content quality and a strong emphasis on recommendations; players are also given tips so they are not blocked from playing through strategic guides.

The concept of flow of users is crucial to all companies, according to Bankhead, and traditional businesses could learn a lot from the way gaming companies engage their customers. Although rewards can be earned in programs such as airline loyalty programs, often it is virtual rewards that are deemed to be more valuable than cash rewards. Furthermore, including a social or charitable aspect often enhances the user experience, and gamers are usually quite positive about this.

Gaming communities are very close-knit, have a lot of power and should not be underestimated. While Big Fish's games do not offer much interaction with other gamers, they do exchange tips and preferences in forums, etc. As a result, offering a free trial of new games to their established customers has been very beneficial to the company.

The event was following by a dynamic Q&A session and a networking cocktail.

“ The growth in the online gaming business has been fascinating to observe over the last years. At Atoz, we were delighted to host this event which succeeded in making gamification relevant and practical to a very diverse audience. Well done, AMCHAM! —Keith O'Donnell, Atoz ”



Amy La Thanh (Kabam)



Paul Schonenberg (AMCHAM), Gabriel Bleser (Allen & Overy), Troy Bankhead (KNEIP), Mira Ilieva Leonard (iStile), Geoff Thompson (The Luxembourg Chronicle)



Gaëlle Aubery (Big Fish Europe)



Keith O'Donnell (Atoz) Paul Schonenberg (AMCHAM)

Annual Fall Welcome

AMCHAM held its Annual Fall Welcome on October 23 with Minister of the Economy and Foreign Trade Etienne Schneider. The event was held at the U.S. Embassy.

Photos: Robert Prendergast



Minister Schneider



Ambassador Mandell, Guy De Muyser



Laure Amoyel (OLAI),
Joseph Huggard (The Huggard Consulting Group)



Jaszi Hollar (Delphi),
Sylvie Schmit Verbrugghen (European Relocation Services),
Paul Schonenberg (AMCHAM)



Gary Kneip (SecureIT)



Ambassador Mandell, Julie Mandell, Robert van den Oord (Robert Walters)

Amcham’s Fall Welcome event is a highlight among Luxembourg’s manifold social networking occasions and SecureIT, a Chartered member, is proud to bring its recurrent sponsorship to it. The 2012 event received even more appeal, being again hosted by the U.S. Ambassador.
—Gary Kneip, SecureIT



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Mobile Payments: A New Era of Opportunities

AMCHAM's IT Committee, in partnership with APSI, held an event at PwC Luxembourg to examine the trends, players and advanced solutions concerning mobile payments and how they are reshaping traditional business models.

Photos: Robert Prendergast



Jonathan Prince (Digicash), Nadia Manzari (CSSF), Philippe Pierre (PwC), Paul Schonenberg (AMCHAM), Marc Hemmerling (ABB), Emmanuelle Hanniaux (PwC), Alexandre Rochegude (Mobey), Todd Mazurek (Remote in Motion)



Nadia Manzari (CSSF), Philippe Pierre (PwC)



Marc Hemmerling (ABB)



Robert LaThanh (Goodreads), Amy LaThanh (Kabam), Philippe Pierre (PwC), Paul Schonenberg (AMCHAM)



Todd Mazurek (Remote in Motion), Aditya Sharma (PwC)

“ A broad range of eminent informed speakers and panelists covered all Luxembourg angles, and much information was packed into a practical time format. My congratulations on another very successful event.
—Charles Oakes, Charles Oakes & Co. S.à.r.l. ”



*Selvaraj Alagumalai (Fouress Systems),
Olivier Marsel (Verizon Entreprise Solutions)*



Philippe Pirre (PwC), Paul Schonenberg (AMCHAM)

An advertisement for bpm. On the left, a woman with blonde hair, wearing a tan blazer, stands with her arms crossed and a smile. On the right, a white speech bubble contains the text: "I shop worldwide at stores that do not deliver to Luxembourg and pick up my orders 24 / 7, in any of 14 locations throughout the country." Below the text is the bpm logo (a green leaf-like shape) and the website "www.bpm.lu". To the right of the logo is a stylized orange map of Luxembourg with white dots indicating pickup locations. At the bottom right, there is a small image of a laptop displaying the bpm website interface.

Breaking the Myths of Entrepreneurial Startups

AMCHAM's New Business & Entrepreneurship Committee recently held its first event at BGL BNP Paribas, posing the question, "So you have an idea. Now what?" Speakers took the audience through the steps of starting a business; topics included the creation of the business plan and what capital providers look for. A list of start-up support organizations and their functions was also available for attendees.

Photos: Robert Prendergast



*Pierre Gramegna
(Luxembourg Chamber of Commerce – [CCLux])*



*Pedro Castilho (BGL BNP Paribas), Vincent Hieff (CCLux),
David Scheckel (Treveri Holdings), Karl Horsburgh (LBAN)
Marc Molitor (Greenhouse/Saphir/Edison), Philippe Augustin
(BGL BNP Paribas), Pierre Gramegna (CCLux),
Jed Grant (Sandstone),
Paul Schonenberg (AMCHAM)*



*Venera Vladoianu (Mylanguage), Veranka Ramanouskaya
(VE.RA Field Marketing), Paul Schonenberg (AMCHAM),
Natalia Durus (multi-LEARN Institute)*



Wim Geleyn (Siaci & Partners)

“ This excellent event delivered as promised. It demystified the steps involved in starting and developing a business in Luxembourg. I was impressed by the number of resources available to help businesses at each stage of growth, especially from the Luxembourg Chamber of Commerce, the Business Angel Network and local VCs. —Jeff Hicks, Optimize Interactive ”

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Roger Claessens has authored various books. His latest "Corporate Culture in Banking" aims at helping you to determine the strenghts and weaknesses of your organisation. Published with AuthorHouse to be found on Amazon.co.uk

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