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Esma probes Luxembourg regulators

By Ellen Kelleher in London

Europe’s financial regulatory supervisor has launched a probe into allegations by a group of investors that regulators in Luxembourg failed to deal with a fund that violated local investment rules.

The European Securities and Markets Authority will examine claims that the Commission de Surveillance du Secteur Financier (CSSF) did not adequately help investors in a bond fund run by Belgian broker Petercam. This is despite the CSSF acknowledging that the fund breached the jurisdiction’s fund rules.

Investors are campaigning to highlight “lax and selective” supervision of funds listed in Luxembourg. Their efforts have intensified since the CSSF told the group in October 2011 to seek redress from Petercam, which has €13.6bn under management, or take their concerns to court.

Albert Biebuyck, managing partner of Investor Protection Europe, the group representing disgruntled investors, last month sent letters to influential industry players to complain about the regulator’s failure to offer compensation.

“You will certainly agree that a lax, selective or oblivious supervision of Luxembourg funds might have negative consequences, besides the losses incurred by investors,” Mr Biebuyck wrote. “It might indeed lead to an increase in violations of regulations or laws by Luxembourg-based asset managers.

“Besides, investors in Europe and beyond could lose confidence in Luxembourg as a reliable financial centre.” The recipients included Luc Frieden, Luxembourg’s minister of finance, Jean-Claude Juncker, the prime minister, and Steven Maijoor, chairman of Esma.

Last week, the CSSF issued a statement saying the “grievances set forth by” Petercam investors had been dealt with. “The CSSF refutes the statement given in the press as the complaint submitted to the CSSF by the claimant has been dealt with according to the applicable complaint procedures,” the CSSF said.

Esma, meanwhile, declined to comment on the investigation into the claims brought by Petercam’s investors.

The CSSF laid out the violation of Petercam’s L Bonds Eur Inflation-Linked fund (formerly known as Eur Medium), as well as the violation of Luxembourg’s fund laws, in written correspondence sent to Petercam investors in October 2011.

The CSSF wrote that the fund’s investments in perpetual bonds were “not permissible” as the fund’s managers had said they would invest only in bonds of a limited duration.

It added that the fund’s prospectus did not comply with Luxembourg’s laws, which state that the “simplified prospectus . . . must contain the information necessary” for investors to assess the investment and “the risks inherent in it”.

Investors in the Petercam L Bonds Eur Medium fund endured a loss of 26.67 per cent in 2008, while Morningstar's Global bond-Euro biased index gained 0.33 per cent over the same period. The Petercam fund lost 25.50 per cent in 2009 while the Morningstar index rose 6.39 per cent.