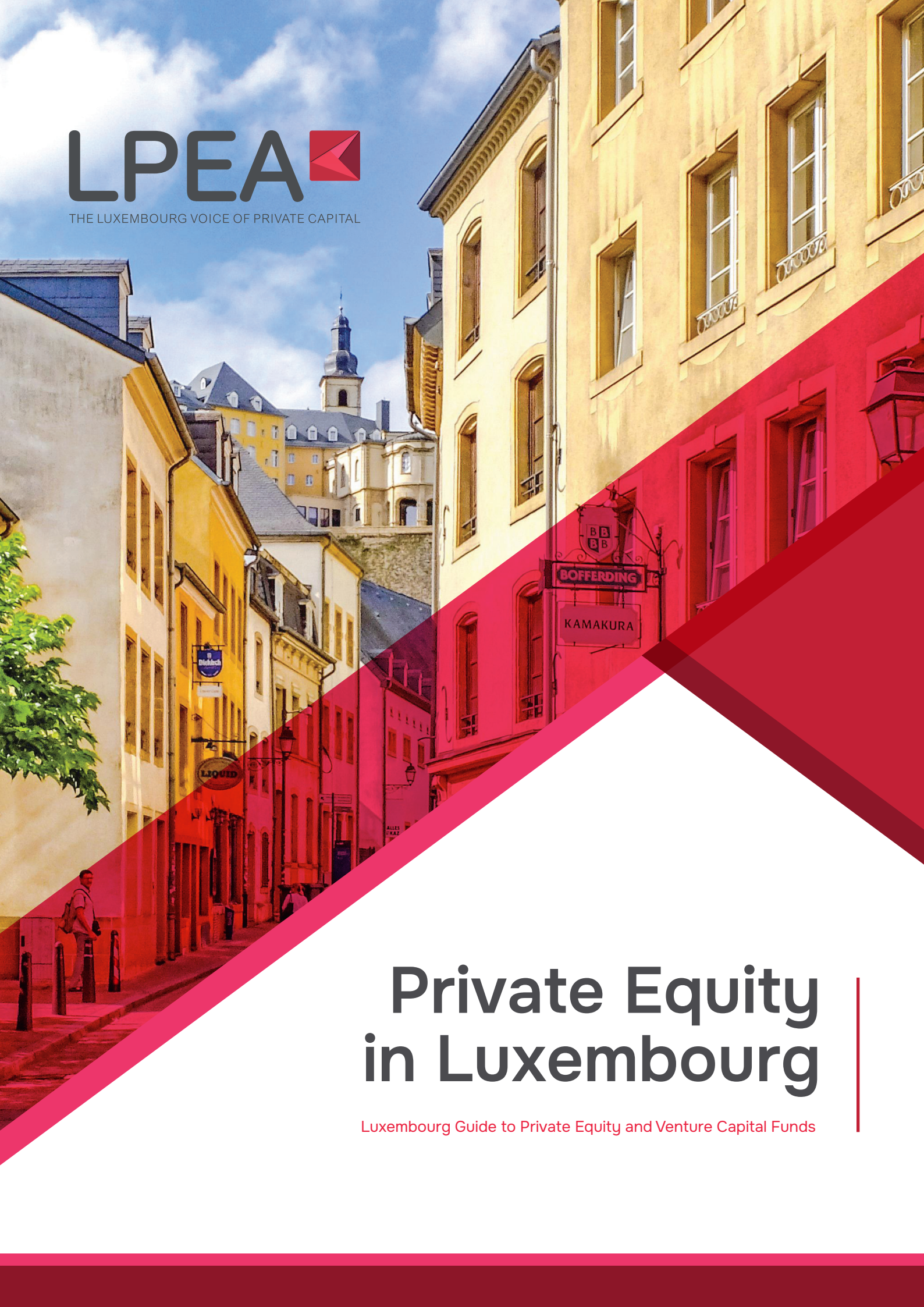


# LPEA



THE LUXEMBOURG VOICE OF PRIVATE CAPITAL



# Private Equity in Luxembourg

Luxembourg Guide to Private Equity and Venture Capital Funds



## About LPEA

The Luxembourg Private Equity and Venture Capital Association (LPEA) is the representative body of Private Equity (PE) and Venture Capital (VC) practitioners with a presence in Luxembourg.

With more than 600 members, LPEA plays a leading role in driving the sector forward and actively promotes PE and VC in Luxembourg. LPEA is the go-to platform for PE and VC investors and advisers with a focus on the latest trends in the industry. International by nature, it allows members to discuss and exchange while learning via workshops and networking events held on a regular basis both in Luxembourg and abroad.

LPEA is an Honorary Member of Invest Europe and a stakeholder of Luxembourg for Finance.

### **Contributions provided by the following LPEA members:**

Stibbe Avocats, Clifford Chance, EY, Magnum Industrial Partners, Etude Loesch and Kroll.

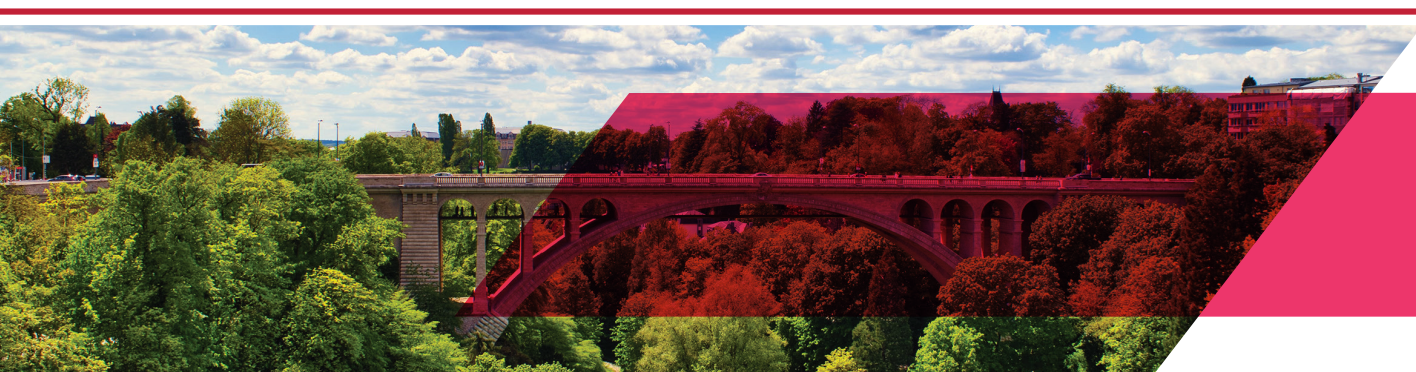
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## 1. Foreword by the CEO of LPEA

Luxembourg stands today as a cornerstone of excellence for global Private Equity and Private markets. Over the past decades, our country has built an unrivalled reputation for stability, innovation, and pragmatism – qualities that have made it the leading European hub for structuring and distributing Investment funds across borders.

Our modern and flexible toolbox, continuously refined in close collaboration between industry and policymakers, provides fund managers with the agility they need to serve investors worldwide. Yet, Luxembourg's true strength lies in its thriving ecosystem – a dense network of asset servicers, legal and tax experts, advisors, and financial institutions that work together with a shared commitment to quality and efficiency.

Recent government initiatives, including the new fiscal package designed to attract and retain top talent – with enhanced inpatriation measures and a modernised carried interest regime – further demonstrate Luxembourg's commitment to strengthening its competitiveness as a global Private markets hub. By fostering an environment where expertise can thrive, Luxembourg ensures that innovation and excellence remain at the heart of its success story.

As our industry evolves, so does Luxembourg. Beyond its recognised excellence in fund structuring and administration, the ecosystem is now expanding its value proposition – integrating more middle-office and front-facing activities where it makes strategic sense. This evolution reflects a broader vision: to position Luxembourg not only as a platform for operational excellence, but also as a centre for insight, innovation, and value creation throughout the investment lifecycle.

The Luxembourg Private Equity & Venture Capital Association (LPEA) is proud to accompany this ongoing transformation. This brochure is designed to guide professionals through the practical and regulatory aspects of setting up and managing Private Equity funds in Luxembourg – and to showcase the opportunities that our ecosystem continues to unlock.

Together, we will continue to strengthen Luxembourg's role as the trusted European home for global Private market strategies – today and for the future.



**Stephane Pesch**

CEO

## 2. Executive Summary

Luxembourg is one of the leading jurisdictions worldwide and the leading hub in Europe for setting up Private Equity and Venture Capital funds. Luxembourg combines unique strengths that cannot be found elsewhere. In summary, Luxembourg provides an economically stable and operationally robust investment environment driven by innovation and by the ever-changing requirements of investors and fund managers.

This publication goes through the different stages of a typical Private Equity Fund's life, from structuring over to setting up to day-to-day management. It is aimed at providing the different types of structuring options, the aspects that need to be accounted for (e.g. regulation, legal framework, tax...), the service providers you will need to liaise with, the documents that need to be prepared at each stage and many other subjects.

▶ **The right structures** – the large range of available structures ensures that all fund promoters will find the suitable vehicle for their investors. Funds can be set up as regulated or unregulated vehicles for all asset classes with different corporate forms to choose from, such as limited partnerships or mutual funds.

▶ Luxembourg is an **onshore EU jurisdiction**, a prerequisite for many investors, and features all Alternative Investment Fund Management (AIFM) distribution capabilities. The reputation of Luxembourg leverages on being the most recognised hub for UCITS distribution worldwide.

▶ The country was able to establish and prove the success of concepts such as third-party AIFMs and the outsourcing of back and middle-office functions, supported by **a sophisticated infrastructure of service providers** and a multilingual and technically skilled workforce.

▶ Luxembourg is a **worldwide-recognised brand for investment** which results from the combination of its history as a banking and funds centre and an innovative approach that embraces sustainability and the adoption of financial technology.



*We chose Luxembourg as the home for our firm and funds because it offers an unparalleled ecosystem for financial innovation and investment. As a globally recognised hub, Luxembourg is trusted by Limited Partners worldwide, providing credibility and confidence in our fund structures. Its political and economic stability ensures a secure environment for long-term investments, while the country's excellent service providers, law firms, fund administrators, and auditors help us operate seamlessly.*

*Strategically located in the heart of Europe, Luxembourg allows us to engage with investors, regulators, and fintech innovators across the continent. Its robust legal framework and investor-friendly regulations provide the flexibility and security we need to drive our investments forward. Combined with its world-class financial sector, Luxembourg is the ideal base for a venture capital firm like ours, committed to shaping the future of financial services.*

**MiddleGame Ventures** — **Pascal Bouvier, Managing Partner**



## 3. Introduction

### Luxembourg: the best place to launch your fund: global recognition and local opportunities

Choosing the right location for PE/VC firms means taking into consideration investor preferences

which may be based on many different factors. The following strengths and their combination explain Luxembourg's success as a hub for private equity and venture capital:

- ▶ Political, social, legal, economic and fiscal **stability**;
- ▶ Strong regulatory environment and **high investor protection standards** under a solid financial sector supervision;
- ▶ **Business-friendly environment** including accessibility, understanding and innovative responsiveness of the regulator and national authorities;
- ▶ **Large range of legal investment solutions** available to set up a private equity fund, including limited partnerships, companies and mutual funds (the “toolbox”);
- ▶ **Tax neutral efficiency solutions** for all types of Private Equity products and a tax treaty network extending to 92 countries;
- ▶ Internationally renowned ecosystem of **service providers with deep expertise** and a multilingual and technically skilled work-force;
- ▶ More than **55.000 professionals** working in the financial sector, 10.7% of the working population;
- ▶ An international population and a **multi-cultural environment** with 47.3% foreign residents;
- ▶ Legacy of more than 30 years of being Europe's first and the world's second largest, most mature and **sophisticated fund domicile**;
- ▶ **Unrivalled experience and expertise** in cross-border investment fund distribution.

## Key facts about Luxembourg

Sources:  
CSSF, Statec, PwC,  
Luxembourg for Finance,  
KPMG, ALFI

**1st**  
Investment Fund Centre in Europe

**AAA**  
Rating

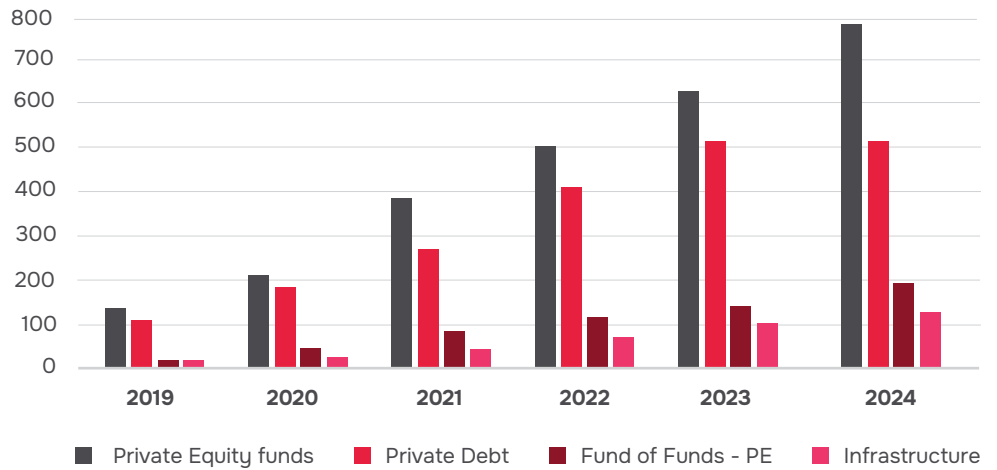
**18/20**  
Biggest Global PE Funds in Luxembourg

**€7.2**  
trillion of AuM

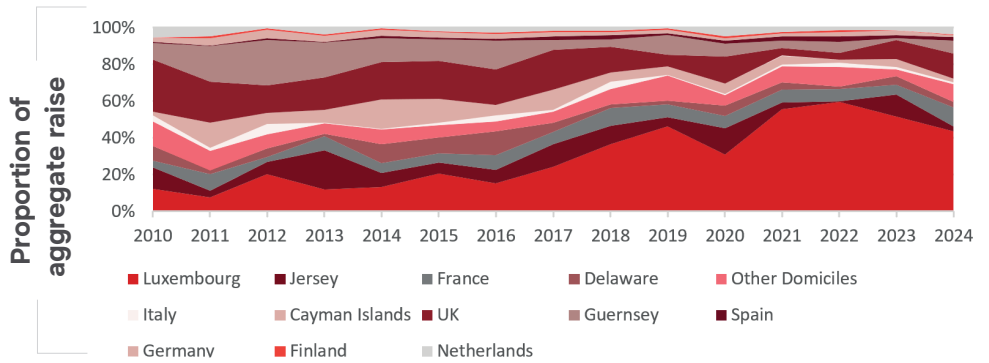
**€1.6 trillion**  
of Private Equity  
& Debt Funds AuM

**2058**  
Private Equity  
Funds Domiciled

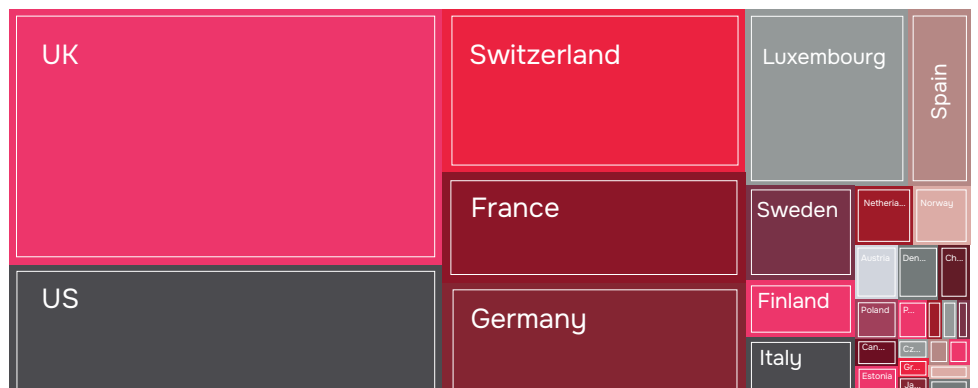
**Private Capital funds in Luxembourg (€ billion; 2019-2024)<sup>1</sup>**



**Fund domiciles by proportion of capital raised in Europe (2010-2024)<sup>2</sup>**



**Country of Fund Manager of Private Capital funds domiciled in Luxembourg<sup>3</sup>**



<sup>1</sup> Based on official data reported by the CSSF (July 2024). Private Debt data according to the annual Private Debt Funds Survey published by KPMG and ALFI (October 2024)

<sup>2</sup> Preqin, "Private Capital Funds Domicile 2024" (November 2024)

<sup>3</sup> PwC/ Preqin (17/01/2025)

## 4. Prelaunch considerations: choosing the right Fund Structure

### 4.1 Overview of available Fund vehicles

In terms of setting up Private Equity and Venture Capital investment vehicles, Luxembourg offers a large variety of structures, such as:

- ▶ Reserved Alternative Investment Fund (“RAIF”);
- ▶ Partnership structures (e.g. SCS or SCSp, the “Limited Partnerships”);
- ▶ Investment company in risk capital (“SICAR”);
- ▶ Specialised investment fund (“SIF”)

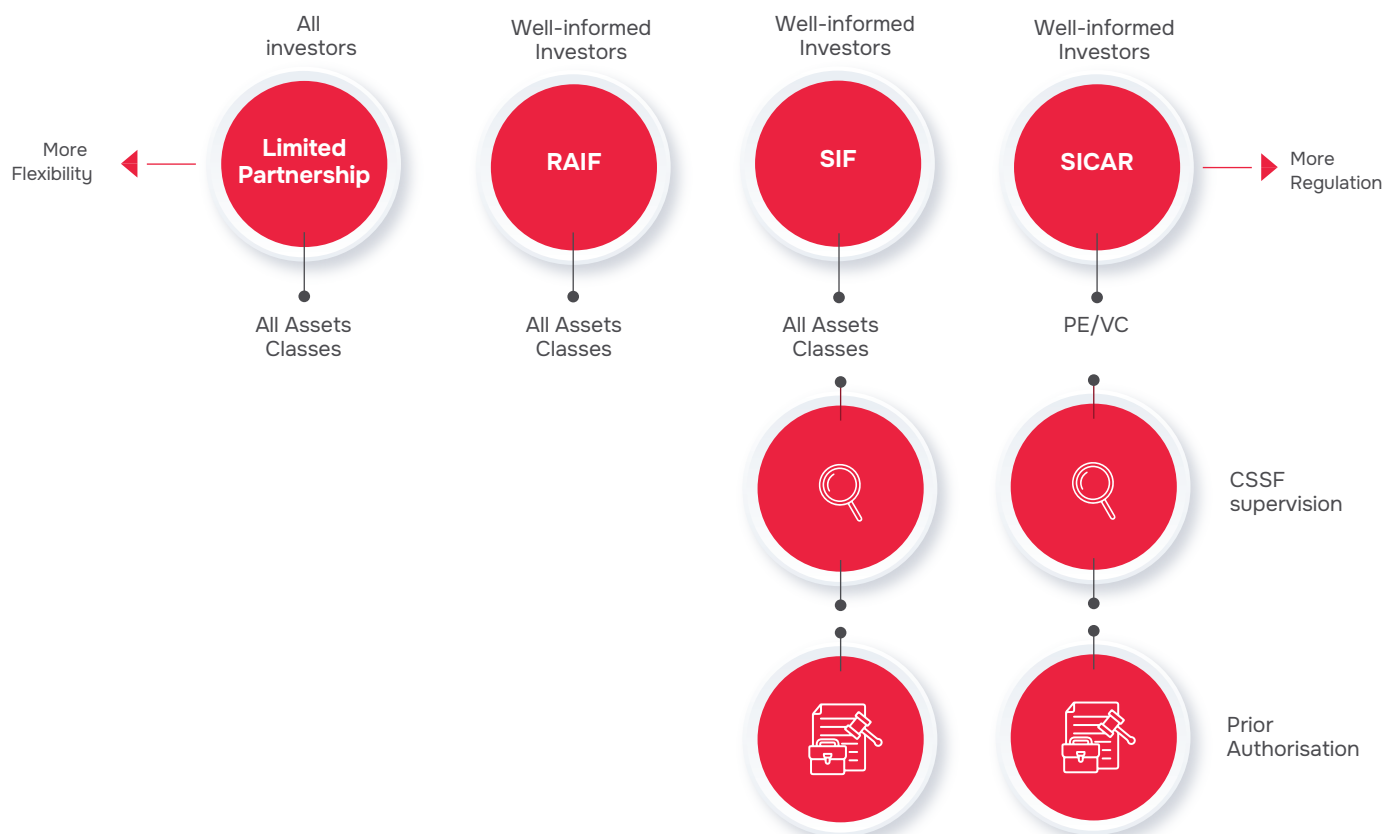
Any of the aforementioned vehicles will generally qualify as an alternative investment fund (“AIF”)<sup>4</sup> under the AIFM Law<sup>5</sup> implementing the AIFMD<sup>6</sup>.

An AIFM would thereby need to be appointed for the performance of the respective AIF’s portfolio and risk management services within the meaning of the AIFM Law. Under certain conditions, the AIF will thus also benefit from the so-called “AIFMD marketing passport”. In addition, a Luxembourg AIF can also, under certain circumstances, benefit from qualifications such as:

- ▶ European Venture Capital Fund (based on the European Regulation (EU) No 345/2013, as amended (“EuVECA”)) or;
- ▶ European Long Term Investment Fund (based on the European Regulation (EU) 2015/760, as amended (“ELTIF”).

#### 4.1.1 Fund features

The diagram below showcases the essential features of the main Fund vehicles, also known as the Luxembourg’s toolbox.



<sup>4</sup> According to article 1 (39) of the AIFM law, an AIF is any collective investment undertaking, including investment compartments thereof, which: (a) raise capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (b) do not require authorisation pursuant to Article 5 of Directive 2009/65/EC;

<sup>5</sup> Luxembourg law on alternative investment fund managers of 12 July 2013, as amended (“AIFM Law”)

<sup>6</sup> Directive 2011/61/EU of 8 June 2011 on alternative investment fund managers, as amended (“AIFMD”)

**Table:** Main features of each type of vehicle

	SIF	SICAR	RAIF	LIMITED PARTNERSHIP
<b>Eligible assets</b>	Unrestricted	PE/VC only	Unrestricted (unless SICAR opt-in)	Unrestricted
<b>Eligible Investors</b>	Well-informed investors	Well-informed investors	Well-informed investors	Unrestricted
<b>Legal Regime</b>	Law of 13 February 2007 ("SIF Law")	Law of 15 June 2004 ("SICAR Law")	Law of 23 July 2016 ("RAIF Law")	Governed by a limited partnership agreement (LPA)
<b>Required Service Providers</b>	Authorised AIFM, a depositary and an auditor	Authorised AIFM, a depositary and an auditor	Authorised AIFM, a depositary and an auditor	Authorised AIFM
<b>Risk spreading?</b>	Yes	No	Yes / No (if SICAR opt-in)	No
<b>CSSF supervision?</b>	Yes	Yes	No	No
<b>Legal forms</b>	Contractual form as a common fund ("FCP") or in corporate form as an investment company	Only as an investment company	Contractual form as a FCP or in corporate form as a SICAV or a SICAF	SCS or SCSp.
<b>AIFMD compliant?</b>	Yes	Yes	Yes	Yes
<b>ELTIF compatible?</b>	Yes	Yes	Yes	Yes

For more details on types of vehicles see **ANNEX 1**

**The Specialised Investment Fund (SIF)** is a highly flexible and widely used Luxembourg investment vehicle designed for professional and institutional investors. It can be used for a broad range of asset classes, including private equity, real estate, hedge funds and infrastructure. The SIF benefits from a light regulatory framework, offering fewer constraints than traditional UCITS funds while still being supervised by the CSSF. A key feature of the SIF is its risk diversification requirement, making it well suited for investment strategies that spread risk across multiple assets. Due to its flexibility and investor-friendly regulatory regime, the SIF remains one of the most popular fund structures in Luxembourg for asset managers seeking a well-regulated yet efficient investment platform. It is the ideal vehicle to offer various investment strategies (RE, PE, Infra, UCITS-type investments) via different subfunds.

**The Société d'Investissement en Capital à Risque (SICAR)** is a Luxembourg investment vehicle designed specifically for Private Equity and Venture Capital investments. It provides a flexible and tax-efficient framework for investors seeking to finance companies with high growth potential. Unlike some other fund structures, the SICAR is not subject to risk diversification requirements, allowing it to focus on concentrated, high-risk investments.

A SICAR can take different legal forms, including corporate entities or partnerships, and can be structured as an umbrella fund with multiple compartments. It is particularly attractive for institutional and professional investors seeking a dedicated private equity and venture capital investment platform.

**The Reserved Alternative Investment Fund (RAIF)** is a Luxembourg investment vehicle introduced in 2016, designed for professional investors. While having adopted many features of SIF and SICAR, it operates without direct approval from the CSSF, making it quicker to set up. Instead, it is supervised indirectly, as explained below. This setup allows the RAIF to benefit from the AIFMD passporting regime, enabling it to be marketed across the European Union.



**RAIF: Commonly used by asset managers, private equity firms, real estate investors, and institutional investors looking for a flexible and efficient fund structure.**




*One of the most critical challenges during our fund set-up was striking the right balance between speed to market and regulatory compliance, all while meeting investor expectations for a robust governance framework.*

*Luxembourg's RAIF model proved effective, offering the agility to launch immediately while still benefiting from the AIFMD passport for cross-border distribution via our chosen AIFM.*

*The RAIF's inherent compartmentalisation flexibility was another game-changer, enabling us to structure multiple investment strategies within a single fund umbrella, efficiently scaling without the friction of repeated regulatory approvals*

**Ilavská Vuillermoz Capital** — **Quentin Dupraz, Partner**



**Unregulated partnerships** are commonly used investment structures, with the Société en **Commandite Simple (SCS)** and Société en **Commandite Spéciale (SCSp)** being two of the most flexible options. These structures are widely used in Private Equity, Venture Capital, Real Estate and Alternative Investments due to their contractual freedom and tax transparency. The SCS and SCSp are both limited partnerships with at least one general partner (GP), who has unlimited liability, and one or more limited partners (LPs), whose liability is restricted to their investment. The main difference between them is that the SCS is subject to certain company law provisions, while the SCSp is purely contractual, offering even more flexibility. Neither requires regulatory approval unless they qualify as Alternative Investment Funds (AIFs) managed by an authorised AIFM, in which case they benefit from the AIFMD passport for EU-wide distribution. Furthermore, a PE or VC Fund can also be set up as an SCA, a limited partnership based on shares.



**These structures are particularly attractive for investors seeking tax-efficient and investor-friendly vehicles within a well-regulated jurisdiction.**



Vehicles in Luxembourg may either be (i) directly supervised by the Luxembourg Commission de

Surveillance du Secteur Financier (“CSSF”) such as the SICAR or the SIF or (ii) indirectly regulated (through an AIFM) such as RAIFs or fully non-regulated AIFs (such as the Limited Partnerships).

What does “regulated” investment vehicle mean?

- ▶ The vehicle’s constitutive documents and management must be approved by the CSSF;
- ▶ The vehicle is directly and permanently supervised by the CSSF;
- ▶ The vehicle is registered on an official regulated vehicles list maintained by and accessible on the website of the CSSF.

Amidst an international regulatory environment seeking to increase transparency and oversight, the SICAR and the SIF are tried and tested regulated Private Equity structures. The legal framework applicable to SICARs and SIFs offers a combination of a flexible and accessible regulatory infrastructure with strong investor protection features.

Besides the SIF and the SICAR, Luxembourg allows Private Equity and Venture Capital fund initiators to set up Luxembourg domiciled funds that are not subject to direct regulatory approval by the CSSF, such as the successful RAIF, and the Limited Partnerships (SCS, SCSp and SCA) qualifying as AIFs or not. Unregulated investment vehicles allow for a significantly enhanced time-to-market for new fund launches.

▶ According to Preqin, there are 230 VC Funds domiciled in Luxembourg. VC funds are different in many ways and most often feature a smaller average size when compared to PE funds. VC fund managers setting up in Luxembourg should therefore look for service providers with particular experience in VC funds.

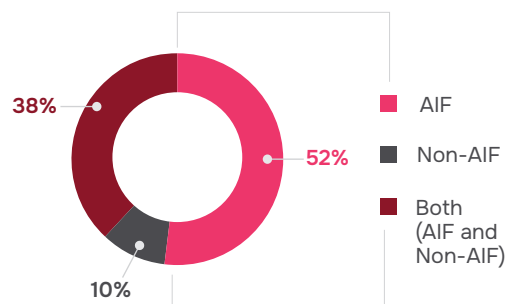
Besides featuring a strong investor reputation and a bespoke legal framework, Luxembourg has developed a dynamic entrepreneurial ecosystem.

▶ Several VC fund managers emerged or established a local presence in response to the Luxembourg Future Fund (I and II), a fund of funds initiative driven by national authorities and managed by the European Investment Fund. The country also features many incubators and accelerators and hosts many international conferences (e.g. Luxembourg Venture Days, LPEA Insights, Nexus 2050, Arch Summit...) next to a large number of other events organised by public and private organisations such as LPEA, LuxInnovation, LBAN, House of Startups, PULSE, LHoFT, Luxembourg City Incubator, Le Village, Silicon Luxembourg, among others.

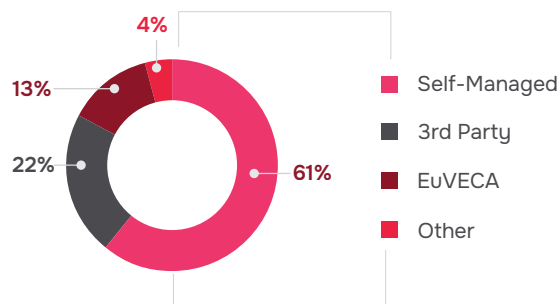
According to the LPEA GP Survey 2024, 61% of surveyed managers adopted unregulated SCSp (Special Limited Partnerships) and 50% adopted RAIFs.

## LPEA GP Survey 2024

### Type of Luxembourg Funds

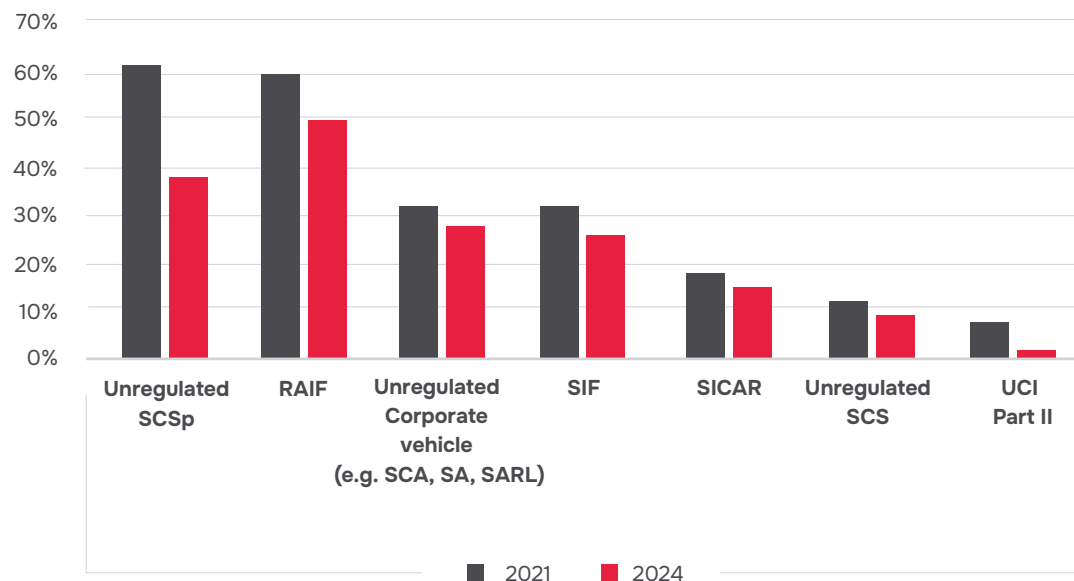


### Alternatives to AIFMD License



65% of surveyed managers have an AIFMD License, of which 91% obtained in Luxembourg.

### Legal structure of AIFs



60% of Fund managers are managing more than one type of Fund

### 4.1.2 Corporate features

In addition to the choice of the investment fund regime suitable for a Private Equity or Venture Capital strategy, a second decision, mostly driven by tax, operational and marketing considerations, will need to be taken in relation to structuring the investment. Luxembourg offers a wide range of possibilities to efficiently structure an investment,

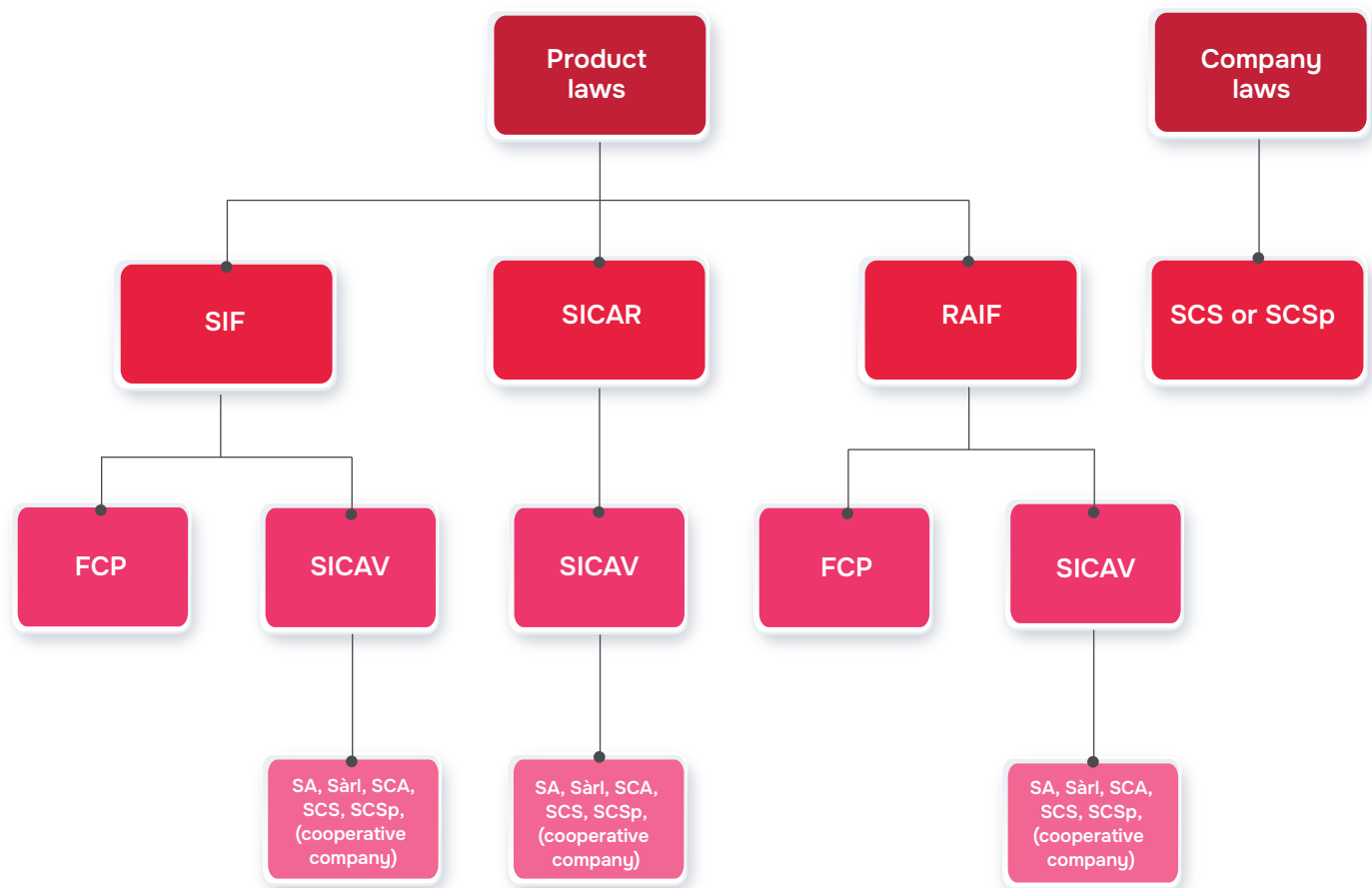
from the legal basic form (contractual or corporate) to the structure of the assets such as the umbrella funds, the fund-of-fund, the master-feeder structures or the use of intermediate vehicles such as holding companies or securitization vehicles.

Further details in Annex 3

**ANNEX 3**

## 4.1.2.1 Legal forms

The basis of legal forms distinguish between different Product laws and Company law.



The decision to set up a private investment vehicle in contractual form (common fund – FCP) or in corporate form (an investment company, generally

with variable capital – SICAV) is driven mainly by the following aspects:

- ▶ The tax situation of the targeted investors: their nationality, place of residence or personal tax situation may influence their choice between an FCP or an investment company;
- ▶ The control that the sponsor would like to keep over the investment structure: the investors of an FCP cannot, as a rule, replace the management company or take control over the investment structure. The same principle would apply to the partnership structures, i.e. SCS, SCSp, SCA as those are managed by their General Partner.

As to the difference between the investment company with variable capital (SICAV) and the investment company with fixed capital (SICAF), the ordinary choice would be the one with variable capital which is from an administrative point of view easier to handle. Indeed, the capital of a SICAV is

increased or reduced automatically as a result of new subscriptions or redemptions making it an operationally viable investment vehicle, with no need for paper-heavy formalities such as an approval of the general meeting of shareholders or the intervention of a public notary.

**Table:** Basic legal forms

	FCP	SICAV	SICAR	PARTNERSHIP STRUCTURES
<b>Legal Form</b>	Contractual	Corporate	Corporate	Corporate/ partnership
<b>Control by Investors</b>	No direct control	Automatically adjusts to subscriptions/redemptions	Shareholders have voting rights	Limited partners have no control
<b>Capital Adjustments</b>	Not applicable	Law of 15 June 2004 ("SICAR Law")	Fixed (requires formal approval for changes)	Typically flexible, depending on structure
<b>Administrative Complexity</b>	Managed by a management company	Easier to handle due to automatic capital changes	More administrative formalities (notary & shareholder approval required)	Depends on the partnership agreement
<b>Tax Considerations</b>	Suitable for investors with specific tax needs	Depends on investor tax situation	Depends on investor tax situation	Often used for tax-efficient structuring
<b>Typical Use Cases</b>	Passive investment funds	Widely used for investment funds	Less used anymore due to complexity and longer approval process	Preferred for private equity & venture capital
<b>Investor Suitability</b>	Institutional investors	Institutional & retail investors	Institutional & retail investors	Typically professional & institutional investors

## 4.1.3 Fund structuring

### 4.1.3.1 Stand-alone vehicle vs. umbrella fund

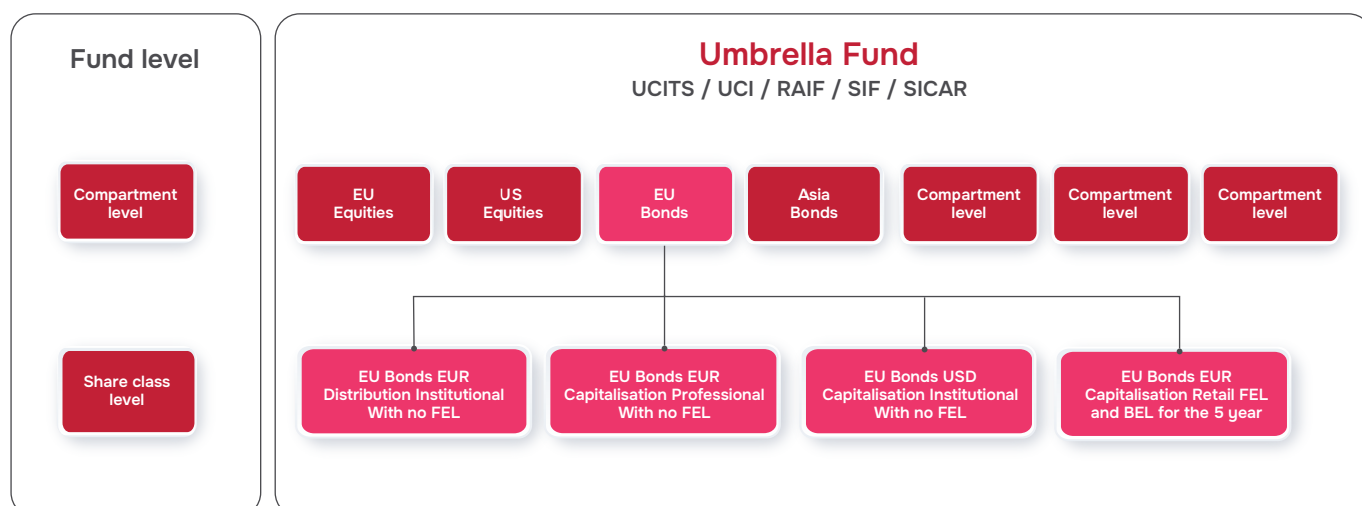
The simplest Private Equity scheme is the stand-alone vehicle, being composed of a single pool of assets with one investment policy and being managed by one single manager. In this case, if the promoter wishes to offer investors exposure to another investment strategy/policy, then another fund must be created. This applies, in particular, to SCS, SCSp and SCA.

The RAIF-, SIF- and SICAR laws specifically refer to the possibility to create an “umbrella fund”, provided the constitutive documents of the fund describe the specific investment policy of each compartment. The umbrella fund structure enables to create, within one legal entity, segregated compartments consisting of a separate pool of assets, each having a different investment policy or other different features (such as investing in different asset classes, which can be managed by different portfolio managers or advised by different advisors and be open to different types of investors). The rights of investors and of creditors concerning a compartment or which have arisen in connection with the creation, operation or liquidation of a compartment are limited to the assets of that compartment, unless a clause included in the constitutive documents provides

otherwise. The assets of a compartment are exclusively available to satisfy the rights of investors in relation to that compartment and the rights of creditors whose claims have arisen in connection with the creation, the operation or the liquidation of that compartment, unless a clause included in the constitutive documents provides otherwise. For the purpose of the relations between investors, each compartment will be deemed to be a separate entity, unless a clause included in the constitutive documents provides differently.

Compartments can differ along various criteria: type of investment, geographical orientation, and investor types and hence fee structures, distribution versus capitalisation etc. Some examples are provided in the below chart.

Larger promoters of UCIs favour multiple compartment structures, allowing investors – if permitted in the constitutional documents – to switch all or part of their investment from one compartment to another. While the offering of different compartments works for all the above structures, for unregulated partnership structures this concept is not applicable.



**Fund Level:**  
 same depositary, same auditor, same Manco/AIFM, one currency for Annual Accounts, share capital on Fund Level, one set of common rules for all compartments, one common Investment Objective / Policy of the Fund

**Compartment or Share Class Level:**  
 NAV per Compartment / Share Class, Investor investing on lowest level: i.e. share class (if available; otherwise compartment level)

### 4.1.3.2 Master-feeder structure

A master-feeder structure is a structure in which a fund invests at least 85% of its assets in units or shares of another fund. Such structure may be

created under any Luxembourg investment fund regime and may qualify as AIF. In an AIF master-feeder structure, a feeder AIF invests:

At least 85% of its assets in another AIF (the “master AIF”), or in more than one master AIF where those master AIFs have identical investment strategies, or has otherwise an exposure of at least 85% of its assets to such a master AIF.

Master and feeder AIFs may be created in combination with foreign UCI – the Luxembourg UCI being the master and the foreign UCI the feeder and vice versa.

However, an authorized AIFM is permitted to market feeder AIFs to professional investors in the EU/EEA with its AIFMD marketing passport only if an authorized EEA AIFM manages the master AIF.

### 4.1.3.3 Fund of funds structure

A fund of funds is a structure in which a fund invests in several other investment funds (the “target funds”). This structure allows a more diversified investment approach and thus presents

a lower risk than directly investing in the target funds, which permits to reach out to some investors who would not be able to invest in the underlying funds directly.

### 4.1.3.4 Vehicles used in conjunction with AIFs

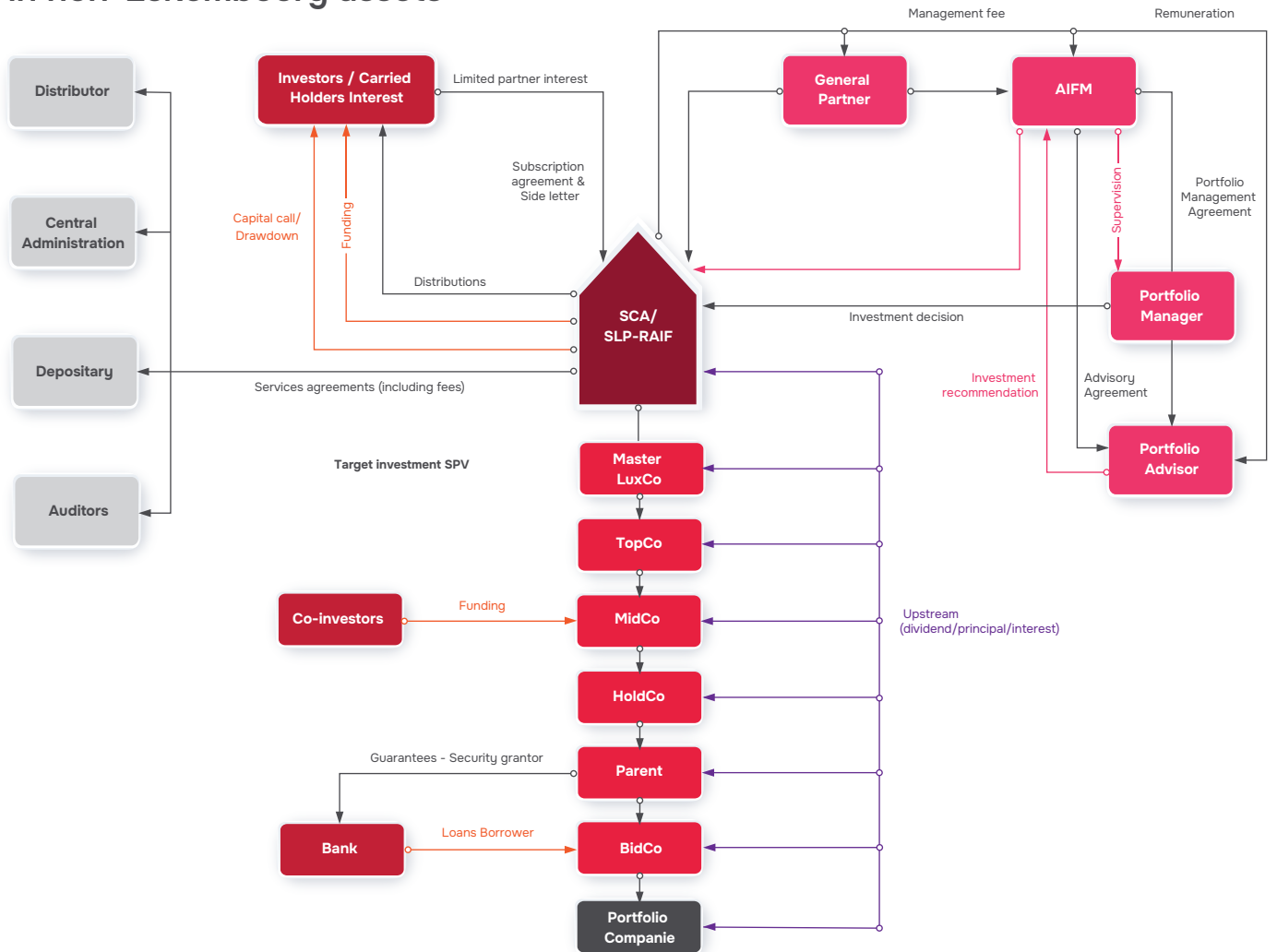
Alternative assets are often held through holding vehicles, for example unlisted companies in private equity AIFs. Such vehicles can be owned either exclusively by the AIF (or its AIFM on its behalf) or as joint ventures, for example, with other AIFs.

The most common Luxembourg non-regulated company used to invest and manage financial participations in Luxembourg or foreign companies is the SOPARFI (Société de Participations Financières). The SOPARFI has a central role in the structuring of cross-border transactions. SOPARFI are ordinary commercial companies able to take any corporate form available under the Company Law (generally an S.à r.l.) and thus are not subject to any risk spreading requirements and may in principle invest in any asset class. A SOPARFI can

also undertake commercial activities which are directly or indirectly connected to the management of their holdings including the debt servicing of their acquisitions. A SOPARFI may qualify as an AIF depending on its characteristic to raise capital from investors, though this is rarely the case.

Securitization vehicles (“SVs”) organized under the amended Luxembourg Law of 22 March 2004 on securitization are also frequently used in conjunction with AIFs. SV can be set up as corporate entities (sociétés de titrisation), or funds with no legal personality, managed by a management company (fonds de titrisation). An SV may also be structured as an umbrella vehicle with various compartments.

### Chart: Classic example of a Luxembourg fund investing in non-Luxembourg assets



#### 4.1.3.5 Structuring examples

The following examples illustrate how PE investments could be structured via a variety of Luxembourg vehicles.

Luxembourg structures typically consist of either a RAIF, an SCSp, a SICAR or a SIF with one or more SOPARFIs holding the underlying investments either directly or via a local intermediate entity.

In the case of an FCP, an SCS or an SCSp, each qualifying as a tax transparent vehicle, the use of intermediate entities is usually recommended to benefit from double tax treaties and national law

implementing EU directives (such as the directive on the participation exemption) that only companies can benefit from, unlike an FCP or tax-transparent companies such as the SCS or the SCSp.

Investors can invest either directly into the Luxembourg vehicle or indirectly via an additional Luxembourg-based or non-Luxembourg-based feeder vehicle. The following points and charts are examples of typical Luxembourg Private Equity structures and do not purport to be or should not be interpreted to be legal advice.



*Luxembourg's approach to fund structuring offers flexibility, though utilizing this effectively requires continuous investment in understanding and adapting to regulatory evolution. While the framework supports innovation, practical implementation often reveals complexities that need careful management and resources to address.*

ICG — Hind El Gaidi, Head of Luxembourg



### 4.1.3.5.1 Parallel fund structures

As European investors tend to prefer to invest through EU funds, there is a clear trend for non-EU fund managers towards setting up parallel funds for different jurisdictions such as EU, US, Asia. The below chart shows a Cayman and a Luxembourg fund structure as an example, but any other parallel vehicles can be set up, such as Delaware companies investing in parallel with Luxembourg funds in Luxembourg/ local Holdcos for investments in Europe, allowing for European and US investors investing in EU companies. In all cases

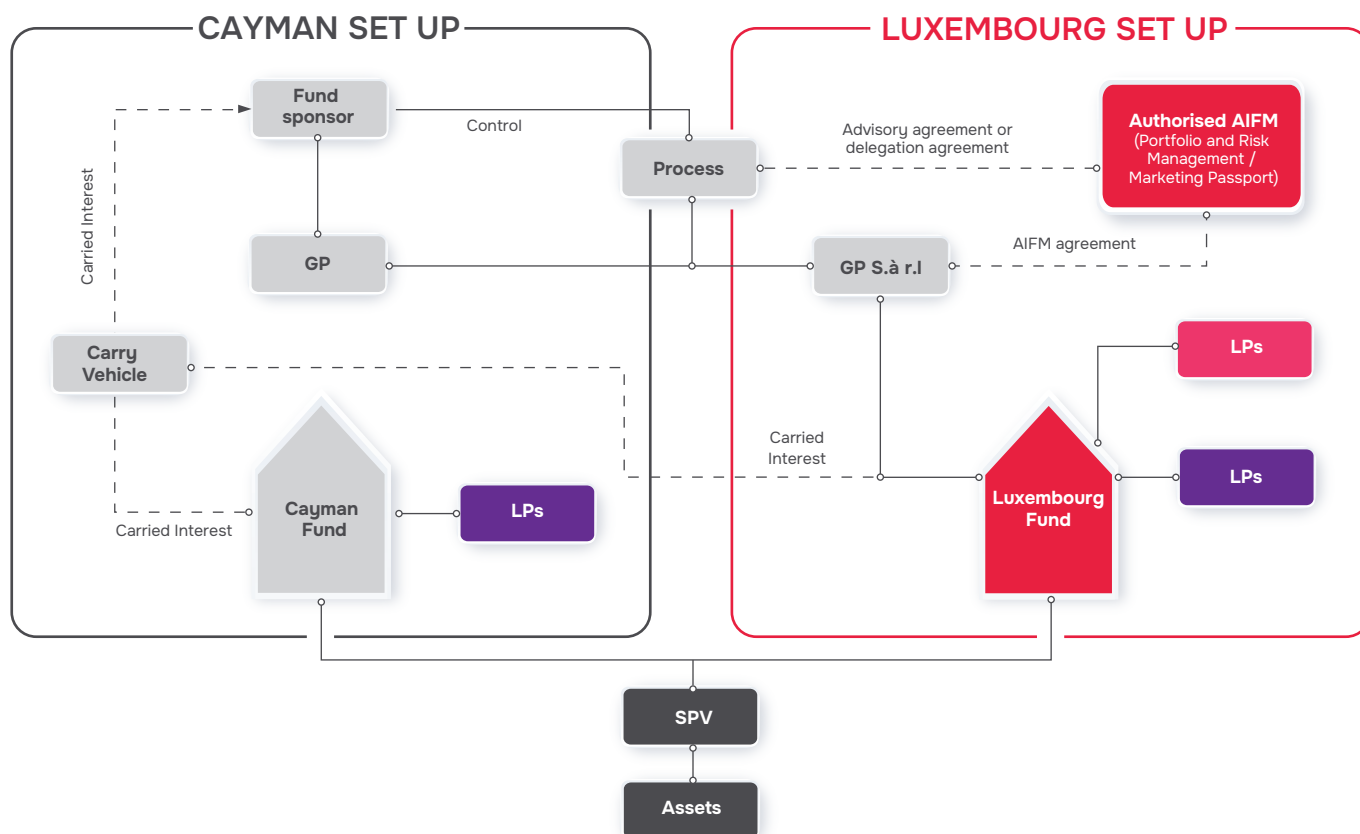
of parallel funds, there should be a local GP managing the local fund.

Today, a large range of administration companies can administer all entities within a structure through the same team, e.g. by centralizing certain functions in one team, and having local teams deal with those aspects that need to be dealt with locally. The same applies to law firms and auditors who will centralize certain tasks and coordinate with local teams where applicable.



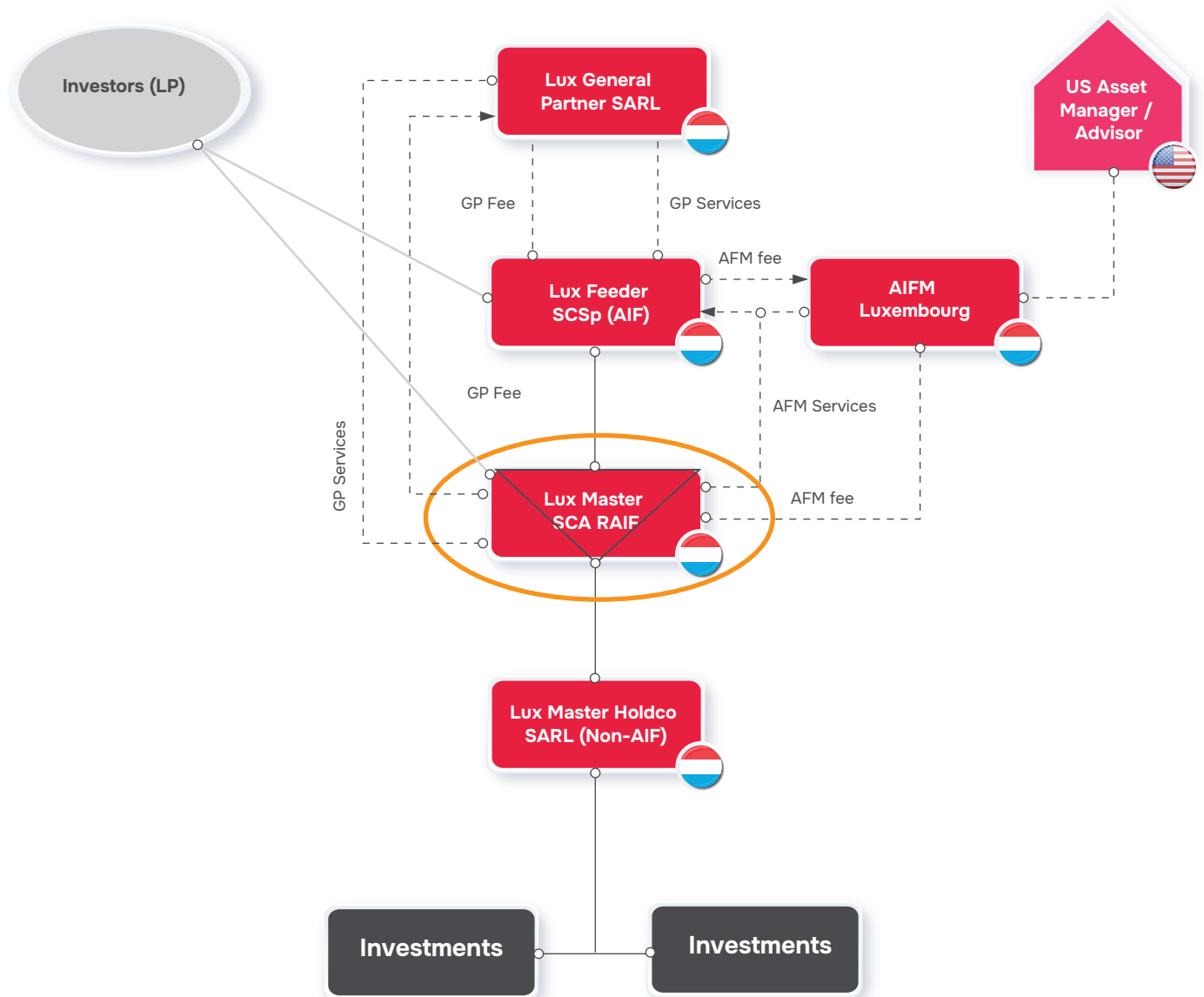
*A key advantage of Luxembourg is the breadth and flexibility of its investment fund framework, which allows fund managers to tailor structures to their specific needs. The jurisdiction offers varying degrees of regulatory supervision, the option to establish funds with or without European passporting for cross-border distribution, and the ability to target a broad range of asset classes with adaptable investment restrictions. This combination of regulatory stability, operational excellence, and structuring flexibility has made Luxembourg the ideal location for Investindustrial's fund operations.*

**Investindustrial** — Eckart Vogler, Managing Director



### 4.1.3.5.2 Master-feeder structures

Master-Feeder structures can be used if different investors prefer transparent or opaque structures. Luxembourg caters for both structures so both master and feeder can be set up in Luxembourg:



These structures can also be used within different EU countries without any problem.

Master-Feeder structures with the master domiciled in the US and the feeder in the EU is subject to certain restrictions, such as limited fundraising being allowed; for combining US and EU vehicles, parallel fund structures are usually the preferred option.

## 5. Setting up the Fund: A step-by-step guide

### 5.1 Step 1: Creation of local substance

Under Luxembourg corporate law, a company or Fund must demonstrate sufficient substance ("substance over form")<sup>7</sup>, by having a physical presence, local staff, and genuine decision-making activities in Luxembourg. This includes maintaining a registered office, central administration, and principal establishment within the jurisdiction, with key management and governance processes, such as board meetings and shareholder meetings, taking place in Luxembourg. Additionally, the residence of managers should ideally be in Luxembourg to meet substance requirements. Domiciliation agents can be used for registering the company's address, but this alone does not fulfill substance obligations. Circular resolutions and remote meetings are permissible but should not overshadow local operations to avoid issues of lacking substance. This principle is particularly important when it comes to corporate governance, taxation, and regulatory compliance.

The CSSF Circular 18/698, issued by Luxembourg's financial regulator, directly addresses the need for "substance" in the context of investment fund managers and related entities operating in Luxembourg. This circular requires that these entities demonstrate actual economic substance within Luxembourg, rather than existing merely as formal legal entities or "shell companies." It mandates that fund managers, for example, have real decision-making, management and operational activities occurring in Luxembourg. The goal of the circular is to ensure that these entities are not established solely for regulatory or tax advantages, but instead are genuinely conducting their business in alignment with Luxembourg's frameworks. In doing so, the circular enforces the notion that the economic substance of corporate operations must reflect their legal structure, directly tying into the broader principle of "substance over form".



*We founded Expon Capital ten years ago and quickly gained the support of key Luxembourg institutions, including the Ministry of Economy, SNCI, and leading corporations such as Proximus, Post, SES, and BIL. Their backing enabled us to launch our first Seed VC fund, dedicated to fostering the local startup ecosystem.*

*This support was instrumental in establishing a sustainable AIFM business with both front and back-office operations based in Luxembourg.*

**Expon Capital** — **Alain Rodermann, Managing Partner**



<sup>7</sup> This idea of aligning legal form with economic reality

## 5.2 Step 2: The legal setup: self-managed or externally managed vehicles

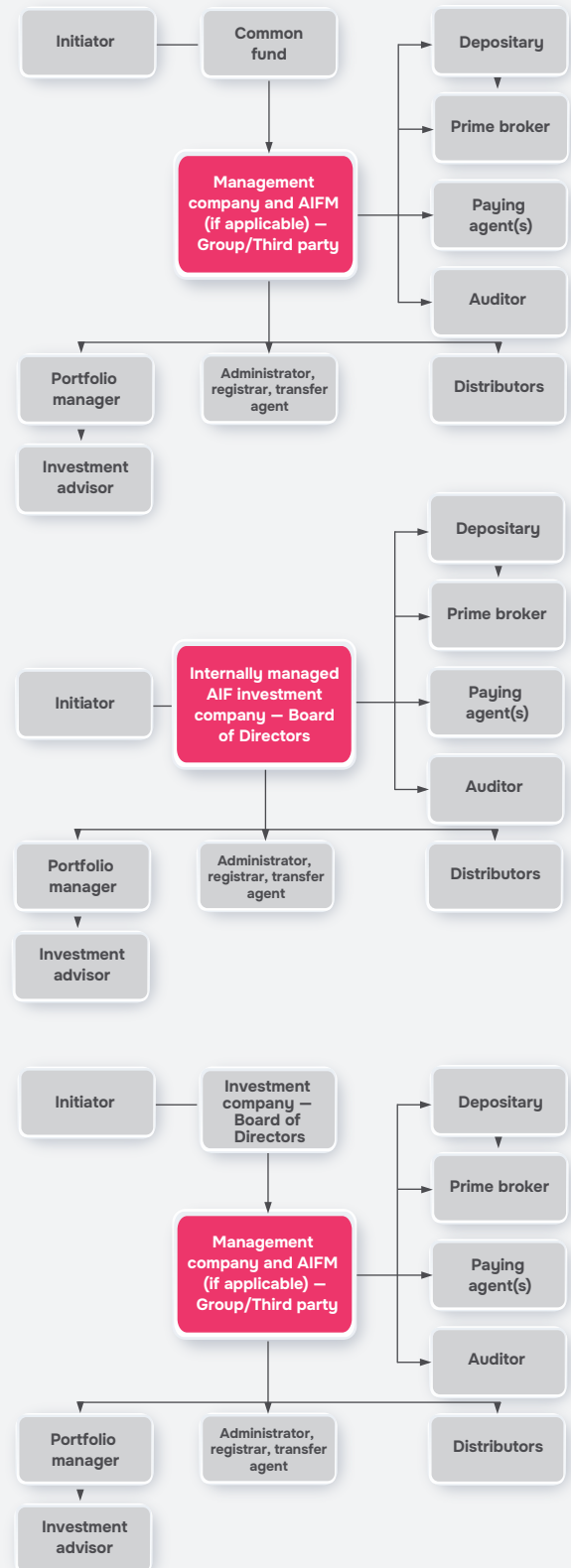
The choice of the basic legal structure (see section 4.1.2.1 of this brochure) has a direct impact on the organisation of the management of a private equity structure:

An FCP, having no legal personality, must be managed by a Luxembourg management company. The management company of a FCP-AIF may in turn – but is required to if the management company exceeds a certain AuM or if the AIF it manages qualifies as a RAIF – (i) either manage the AIF itself (if authorised as authorised AIFM) or (ii) appoint an authorised AIFM in Luxembourg or another EU/EEA Member State.

An investment company may be managed (i) either by its own board of directors, general partner or managers (depending on the corporate form) (selfmanaged) (ii) or by a management company (externally managed).

An internally managed alternative investment company may – but is required to if the AIF exceeds a certain AuM or if the AIF it manages qualify as a RAIF – (i) either manage the AIF itself (if authorised as authorised AIFM) or (ii) appoint an authorised AIFM in Luxembourg or another EU/EEA Member State.

An externally managed alternative investment company may appoint an authorised Luxembourg management company or an authorised AIFM in Luxembourg or another EU/EEA Member State. And the Luxembourg management company may – but is required to if the management company exceeds a certain AuM or if the AIF it manages qualify as a RAIF – either manage itself (if approved as authorised AIFM) or delegate to an authorised AIFM.



Today, the vast majority of Private Equity administrators offer the full range of central administration services, including domiciliation, administration, accounting, tax filing and company

secretarial services to AIFs, including their controlled special purpose vehicles located in Luxembourg and/or abroad.

### 5.3 Step 3: The AIFM

Without prejudice to certain *de minimis* exemptions, a Private Equity fund qualifying as an AIF shall either appoint an authorised external AIFM which will be responsible for managing the AIF or, where their legal form permits internal management, become themselves authorised as AIFM (“internal AIFM”). In the latter situation, the AIF itself shall be authorised as AIFM.

The key function to be performed by the AIFM is the investment management function, including portfolio management and risk management under AIFMD. The AIFM may also perform administrative and marketing functions and further activities related to the assets of the AIF.

The delegation of some of an AIFM's functions is

permitted but must retain at least one of the core functions (i.e., portfolio management or risk management), subject to prior notification to the regulator, disclosure and certain requirements in order to avoid the AIFM to become a letterbox entity. These requirements consist of *inter alia* retaining eligible conducting officers, the enhancement of the central administration and substance of the Private Equity or Venture Capital structure, the necessity to introduce rules or policies on risk management, compliance, internal audit, transparency, remuneration and conflict of interest situations.

Comparable organisational requirements are stipulated in detail by the EuVECA Regulation as well as by the ELTIF Regulation.

#### Flexibility in AIFM Choice – In-house or Third-Party

Luxembourg offers to both EU and non-EU fund managers the flexibility to choose between setting up their own Alternative Investment Fund Manager (AIFM) or partnering with an experienced third-party AIFM. The country has developed significant expertise in both options, with a wide range of service providers able to meet the most demanding regulatory requirements. Whether you wish to retain full control over fund management or outsource it to a trusted local partner, Luxembourg offers the necessary infrastructure and resources to support your decision, ensuring optimal fund governance and compliance.

### 5.4 Step 4: The service providers and partners

The Luxembourg PE fund administration sector basically falls into two categories: large international administrators servicing all fund ranges, including Private Equity funds, as well as independent local and international specialist Private Equity administrators.

The former category to a large extent consists of local banks and branches of international banks, usually offering custody banking and administrative services as well as a large range of other banking

services. Management services, such as AIF Management, are often provided only for the bank's own range of funds.

The latter category consists of administrators that either have their origins in Luxembourg, traditionally servicing corporate vehicles but having expanded into servicing PE funds or international administrators that have set up branches in Luxembourg. Of this second category, several have obtained depositary and/or AIFM licenses to complement their range of services.



*The capacity for Luxembourg to bring international and highly skilled service providers working together on structuring funds subscribed by international investors on the one hand, and on cross-border investments on the other hand, was key in our setup. It helps today to manage efficiently and to maintain legal & tax certainty for investors.”*

**Oraxys** — **Gregory Fayolle, Managing Partner**



## 5.4.1 Central Administration

The central administration of the Luxembourg Private Equity fund must be located in Luxembourg. It encompasses the following duties which will be

partially or totally delegated by the management company/investment company/AIFM to one or several providers:

- ▶ Domiciliation Services (A separate domiciliation agent may also be appointed to ensure the domiciliation function).
- ▶ Corporate Secretarial Services
- ▶ Accounting, Financial Reporting, Administration and Payment Services
- ▶ Register and Transfer Agency Services and Investor AML-KYC
- ▶ Further services, such as regulatory reporting, tax compliance, FATCA/CRS services and UBO register services.

## 5.4.2 Depositary

Depositary services for regulated Private Equity structures comprise the following three specific components:

### 1. The safekeeping of Financial Instruments, where applicable, the ownership verification:

**Safekeeping of assets:** Luxembourg based depositaries are very well positioned to perform these legal duties under the AIFMD; already the SICAR Law, introduced in 2004, foresaw the appointment of a depositary bank. So Luxembourg has a long-standing tradition of depositary services for PE and VC funds.

Assets classified as **Financial Instruments** must be held in custody according to the AIFM Law. While banks can safekeep any type of Financial Instrument, depositaries that do not have an own banking license will have to delegate the safekeeping of Financial Instruments to an institution with a custody license. A sub-delegation agreement to transfer the contractual liability for safekeeping of Financial Instruments to the delegated Custodian according to the AIFM Law will need to be put in place.

**Ownership Verification:** As Private Equity fund assets in principle cannot be physically safekept, the depositary - whether with or without banking license - usually focuses on its oversight duties. The scope of the supervision and oversight function of the depositary implies:

- ▶ reception and filing of the legal documentation relating to the transactions carried out;
- ▶ recordkeeping of non-financial assets in the name of the AIF including an inventory of all assets of the AIF.

## 2. Oversight duties of the structure's assets:

- ▶ Oversight over sale, issue, repurchase, redemption and cancellation of shares/ interests/ units;
- ▶ Implementation of an internal verification check list and escalation procedure;
- ▶ Ensuring that in transactions involving the AIF's assets any consideration is remitted to the AIF within the usual time limits; so controlling all transactions including settlement;
- ▶ Ensuring that the AIF's income is applied in accordance with the applicable regulations and the constitutive documents of the AIF, and
- ▶ Ensuring that the value of the shares/ interests/units is calculated in accordance with Luxembourg law and constitutive documents of the AIF.

## 3. Cash flow monitoring:

▶ **Cashflow monitoring:** the depositary needs to ensure that the AIF's cash flows are properly monitored and that all payments made by or on behalf of Investors following subscription or redemption of interests of the AIF have been received/paid and that all cash has been booked/released in/from the Cash Accounts.

- ▶ **Despite the entry into force of AIFMD II, the depositary of a Luxembourg Private Equity Fund should, in principle, be located in Luxembourg. Only subject to exceptional circumstances and under certain conditions, the depositary may be situated in a different Member State.**

## 5.4.3 Other service providers

### Banking services:

Luxembourg banks offer a number of services, including but not limited to cash management services, treasury, foreign exchange management, bridge financing and management of escrow accounts to their Private Equity clients. For funds using the services of a professional depositary of assets other than financial instruments under AIFMD regulations, hence a company depositary without a banking license, the Fund, the GP (and its Luxembourg SPVs if applicable) will need to open their cash accounts with a separate banking institution. For this, in principle any bank or credit institution in the EU or in certain non-EU countries can be used. However, there are various reasons to opt for a local banking institution: 1) substance reasons; 2) practical reasons: this applies in particular to funds and other entities set up in a

corporate form (SA, SARL or SCA) where the incorporation process might be more complicated if a non-Luxembourg bank is not familiar with the concept of blocking and de-blocking certificates; 3) likewise it is important to ensure that non-Luxembourg banks are familiar with the concepts of capital calls, drawdowns and distributions and have tools in place to ensure an effective functioning of the fund and avoiding fraudulent behaviour of external parties; and 4) to meet investor expectations, as local banking institutions are recognized in the market and may provide additional comfort to prospective investors, thereby serving as a selling point. Over the past years, alternative solutions to local banking institutions have emerged, such as online banks, which are accepted as such by the CSSF and conform to the criteria set for banking institutions.

Luxembourg banks offer key services like cash management, treasury, FX management, bridge financing and escrow account management for Private Equity clients.

Funds using a non-banking depository under AIFMD must open cash accounts with a separate bank, which can be in the EU or certain non-EU countries.

Opting for a local bank has advantages, including substance compliance, smoother incorporation, familiarity with fund operations (capital calls, drawdowns, distributions), and investor confidence.

Alternative solutions like online banks have emerged and are accepted by the CSSF, providing flexibility to fund structures.

### Legal, tax and audit services:

Each AIF must appoint a Luxembourg independent auditor qualifying as a *réviseur d'entreprises agréé*.

Luxembourg avails itself of significant expertise in legal and tax matters through numerous local and international law firms, tax advisers, audit firms experienced in Private Equity structuring and

servicing as well as an increasing number of advisory firms supporting the set-up of new funds or specialised in the provision of specific services. There is also a large number of skilled, independent directors in the fund industry, most with many years of experience at local service providers.



*Luxembourg's dynamic ecosystem fosters seamless collaboration across diverse disciplines, with its growing software sector standing out as a vibrant hub of innovation. I could envision one of these startups evolving into an industry giant, reflecting the nation's commitment towards this sector.*

**Golding Capital Partners  
(Luxembourg) S.A.**

**Christian Schnabel,  
Management Board Member**



*Beyond the regulatory advantages, our strong relationships with auditors and legal advisors have been instrumental in both establishing and maintaining the fund. Experienced service providers played a crucial role in preparing the Investment Memorandum and securing EuVECA status. Investor protection laws and financial stability further reinforced our decision to set up headquarters in Luxembourg.*

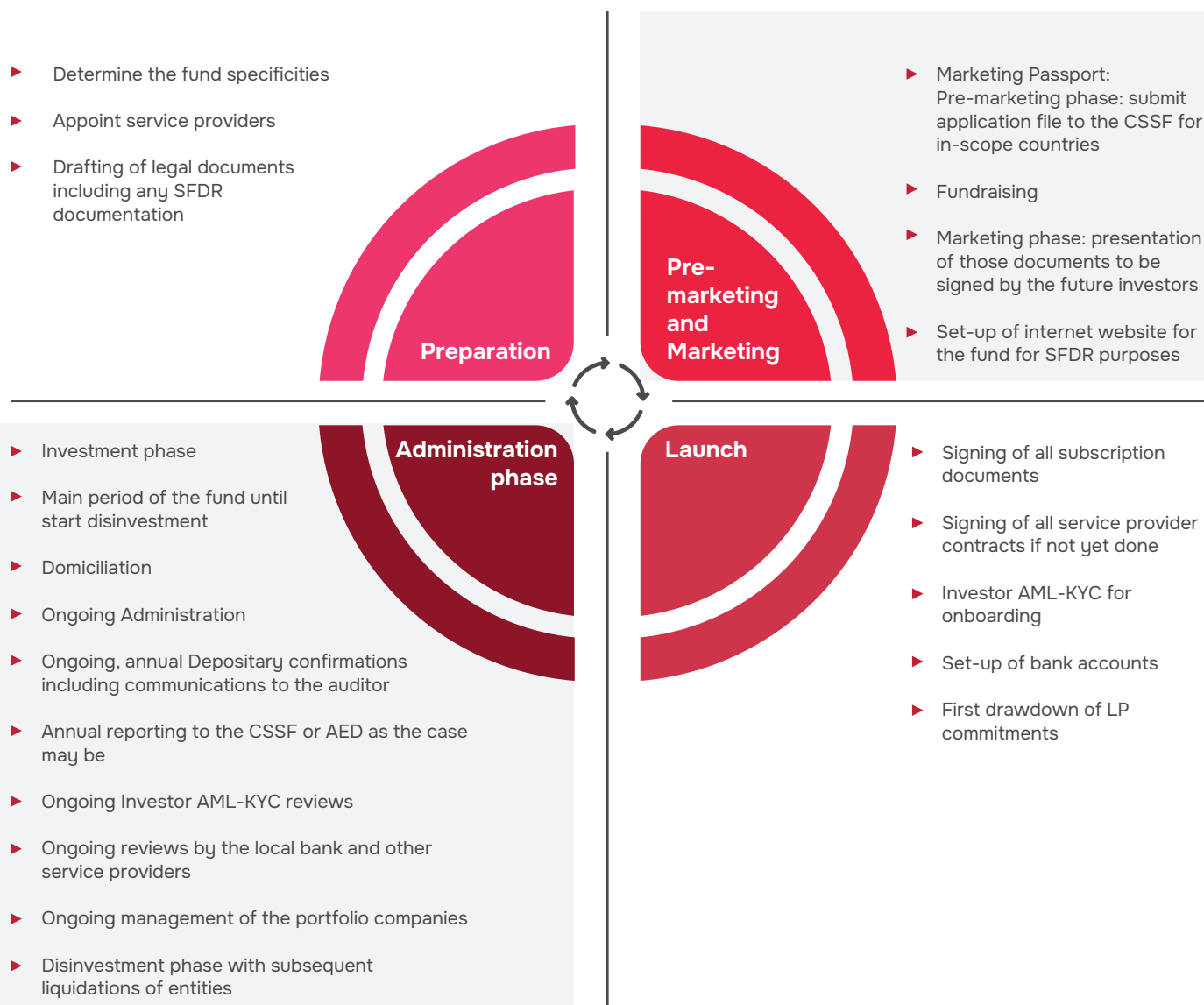
**Vesalius Biocapital  
Fabienne Roussel, Ph.D**



## 6. Fund Launch: Key milestones

Setting up a fund is a process similar in all jurisdictions – but the devil is in the (local) detail, so the below description is focusing on the

Luxembourg processes. All funds being different, it is also recommendable to seek the support of a local partner:



### 6.1 Launch considerations

#### 6.1.1 Preparatory phase

The determination of the type of fund is the starting point. There are a multitude of different types of funds and finding the right structure needs to take into account various factors, such as investor preferences, taxation, legal and operational aspects, amongst others. In practical terms, over the past years the Reserved Alternative

Investment Fund (RAIF) and the unregulated Special Limited Partnership (SCSp), have been the most popular choices for Private Equity funds. None of the two are regulated by the CSSF, while SIF and SICAR require prior authorisation by the CSSF via e-Desk.

### 6.1.1.1 Drafting of documents

If no own substance is created in Luxembourg, only the fund documentation for fund and GP need to be set up. These constitutive documents vary, depending on the legal form of the fund but usually follow a standardised pattern and which is best drafted by the Luxembourg legal advisor (also see paragraph below). Experience shows that using the model of a non-local PPM (Private Placement Memorandum) is not always recommendable, though certain content can be replicated for the Luxembourg fund. Unregulated SCSps do need an agreement with their investors but not necessarily

a PPM which in turn is obligatory for a RAIF. In practice, also promoters of funds set up as unregulated SCSps do in most cases issue a PPM to their investors if there is an international fundraising. For regulated investment funds, the CSSF will also have to approve the relevant constitutive documents prior to their authorization and launch. Discussions with the CSSF on the compliance of the documents with the applicable laws and regulations can be held with the assistance of Luxembourg external advisers, such as law firms.

### 6.1.1.2 Constitutive documents

The type of constitutive documents will vary depending on the legal form of the investment vehicle:

A limited partnership (SCS or SCSp) will be governed by its limited partnership agreement either signed under private seal or in front of a Luxembourg notary by its general partner and the limited partners.

A company (S.A., S.à r.l. or S.C.A.) will be governed by its articles of incorporation enacted in front of a Luxembourg notary.

An FCP will be governed by its management regulations signed under private seal by its management company and the depositary.

This is independent of whether the Fund is set up as a RAIF, SIF or SICAR with the exception of the SICAR which cannot be set up as an FCP.

#### 6.1.1.2.1 Offering document

The necessity to draft an offering document varies depending on the law applicable to the investment vehicle. As mentioned above, SIF, SICAR and RAIF must produce an offering document while the drafting of an offering document is optional for

non-regulated AIFs (including the Limited Partnerships). The CSSF will review and approve the content of the offering document of a SIF and a SICAR. However, the content of the offering document of a RAIF is largely free.

#### 6.1.1.2.2 Service agreements

These agreements are the ones that reflect the necessary appointments required by applicable laws (e.g., the obligation to appoint a depositary requires the drafting and execution of a depositary agreement). While some of the clauses found in service agreements reflect mandatory items to be mentioned or determined between the relevant parties, other clauses are more commercial in

nature and thus remain subject to commercial negotiations between parties. External advisers, such as Luxembourg law firms, can assist in both regulatory and commercial negotiations by helping their client understand the applicable regulatory issues and provide market intelligence on business items.

### 6.1.1.2.3 Other documents

Other documents might have to be drafted depending on the legal form of the investment vehicle. For instance, corporate and administrative documents necessary to launch and register the vehicle with the RCS or regulatory documents to help market the shares or units of the vehicle pursuant to the AIFMD marketing passport (i.e. marketing notifications) as well as the mandatory disclosure to investors as per article 23 of the AIFMD, subscription agreement, side letters, etc. might be needed.

The timing of the launch will notably depend on the regulated or unregulated nature of the investment

vehicle. Typically, non-regulated AIFs (including the Limited Partnerships) are launched within 1 to 3 months while regulated investment vehicles are launched within 3 to 6 months. The latter being subject to the duration of the CSSF's approval process.

It is further advisable to start the bank account opening process as early as possible for which service providers can assist. Once all necessary documents have been executed, with the required authorisation obtained where relevant, the investment vehicle can be launched, and the investors admitted in the vehicle.

## 6.1.2 Pre-marketing and marketing

Luxembourg is uniquely positioned as a central hub for fund management in Europe, providing non-EU managers with an ideal gateway to access the EU market. With an EU marketing passport available for both AIFs and UCITS, Luxembourg allows funds to efficiently distribute across Europe.

The country also boasts a deep pool of highly skilled professionals in the financial services sector, offering a well-developed talent base to support fund operations. The Luxembourg toolbox, including innovative solutions like the RAIF or the SCSp structures, ensures flexibility to meet the specific needs of any fund manager's strategy.

### 6.1.2.1 Marketing passport

An AIF benefits from the so-called AIFMD marketing passport for marketing in the EU to professional investors provided that it has appointed a fully authorised AIFM. Otherwise, it will be subject to the local marketing rules (NPPRs). As mentioned under Chapter 2 of this brochure, other EU marketing passports allow targeting investors other than professional investors. For example, the EuVECA marketing passport allows

targeting investors investing a minimum of EUR 100,000 while the ELTIF marketing passport allows targeting any investors, including retail investors under certain additional requirements. Before launching an AIF, it is therefore crucial **(i)** to ascertain whether the target investors qualify as professional investors under the definition provided by the AIFMD and **(ii)** to identify the jurisdictions in which these investors are domiciled.

### 6.1.2.2 Pre-marketing

The aim of Directive ((EU) 2019/1160) and Regulation ((EU) 2019/1156) of the European Parliament and of the Council of 20 June 2019 on facilitating cross-border distribution of collective investment undertakings **(the "CBDF Framework")** is to improve the transparency of national requirements, remove burdensome requirements and harmonise diverging national rules. It entered into application in the EU on 2 August 2021.

"Pre-marketing" is the provision of information or communication, direct or indirect, on investment

strategies or investment ideas by an EU AIFM or on its behalf, to potential professional investors domiciled or with a registered office in the Union in order to test their interest in an AIF or a compartment which is not yet established, or which is established, but not yet notified for marketing in accordance with Article 31 or 32 of the AIFMD, in that Member State where the potential investors are domiciled or have their registered office, and which in each case does not amount to an offer or placement to the potential investor to invest in the units or shares of that AIF or compartment.

According to this definition, at a pre-marketing stage investors cannot acquire units or shares of an AIF or AIF compartment. EU AIFMs or another entity on their behalf<sup>8</sup> must notify the CSSF within two weeks of the AIF being pre-marketed, having begun pre-marketing via an informal letter specifying various information about such activity.

The CBDF Framework created a level-playing field between the EU AIFMs and non-EU AIFMs for the same conditions and notification procedure to apply to both actors when they engage in pre-marketing to potential professional investors in a European Union Member State.

Various criteria have been put in place by the CBDF Framework to ensure that at pre-marketing stage the presented documentation is not an invitation to actually subscribe:

Pre-marketing rules prohibit the distribution of subscription documents or similar documents during pre-marketing, even in draft form but constitutional documents and prospectuses or offering document can be distributed in draft form.

However, in case a draft prospectus or offering document is presented, it must not contain sufficient information to allow investors to take an investment decision and must clearly state that it is not an invitation to subscribe and that the information presented cannot be relied upon, as it is incomplete and may be subject to change. While this sounds rather restrictive, the pre-marketing passport enables EU-wide pre-marketing access to professional investors without having to launch the fund and incurring preparatory, legal set-up, registration or even ongoing admin fees.

In practice, a Luxembourg AIFM usually offers pre-marketing services whereby the Luxembourg AIFM and the fund promoter work side by side in approaching potential EU investors. Often, the pre-marketing itself is subcontracted to placement agents, as long as they are regulated as such in the EU. Today, the route to EU investors via the pre-marketing through Luxembourg AIFMs is widely accepted and usually perceived to be less cumbersome than trying to go for NPPR in each individual EU country targeted.

The CBDF Framework (Directive (EU) 2019/1160 & Regulation (EU) 2019/1156) harmonises rules for the cross-border distribution of investment funds in the EU, improving transparency and removing burdensome national requirements.

Pre-marketing allows EU AIFMs to gauge investor interest in a fund before its formal launch, but investors cannot subscribe at this stage.

AIFMs must notify the CSSF within two weeks of starting pre-marketing, providing key details about the activity.

The framework creates a level playing field between EU and non-EU AIFMs, ensuring the same conditions and notification procedures apply when targeting EU professional investors.

### 6.1.2.3 Cross-border marketing rules

Once interest of potential investors has been assessed and the countries determined where those potential investors are domiciled in the pre-marketing phase, the official marketing period can begin and official marketing documentation in its final version can be provided to investors. Summarising cross-border marketing, it is the direct marketing conducted from a home Member State to

one or more other Member States. The AIFMD facilitated this process for AIFs and for AIFMs thanks to the AIFM marketing passport easing access to capital, simplifying compliance and increasing market reach. However, as mentioned above, a lack of harmonisation in domestic rules led to the CBDF Framework amending the AIFMD in August 2021.

<sup>8</sup> A third party shall only engage in pre-marketing on behalf of an EU AIFM where it is: (i) a MiFID investment firm, (ii) a credit institution, (iii) a UCITS ManCo (iv), an AIFM, or acts as a tied agent (October 2024)

As such, the cross-border marketing of EU AIFs has been facilitated while maintaining regulatory oversight and ensuring that AIFMs comply with the AIFMD requirements. The CBDF Framework outlines the conditions and the procedures for the marketing of units or shares of EU AIFs in Member States other than the home Member State of the AIFM. The conditions for marketing include the submission of a notification to the competent authorities of the home Member State of the AIFM, which must include the documentation and information needed for the marketing in its home Member State, and additionally, (i) the indication of

the Member State in which it intends to market the units or shares of the AIF to professional investors, (ii) the details necessary for the invoicing or for the communication of any applicable regulatory fees or charges by the competent authorities of the host Member State, as well as (iii) information on the facilities available to retail investors.

The CBDF Framework further ensures that AIFMs comply with the AIFMD requirements once they are no longer actively marketing AIFs in a host Member State. The **de-notification** obligations are triggered when an AIFM ceases to market units or shares of some or all EU AIFs in Member.

After the pre-marketing phase, official marketing can begin, allowing final marketing documents to be shared with investors.

The AIFM marketing passport simplifies cross-border marketing, but the CBDF Framework was introduced in August 2021 to address inconsistencies in national rules.

The CBDF Framework outlines marketing conditions, including notification to home Member State authorities and compliance with AIFMD requirements in host Member States.

De-notification rules prevent AIFMs from engaging in pre-marketing of the same or similar AIFs in a de-notified Member State for three years after ceasing marketing activities.

#### **States other than the home Member State:**

This includes situations where the AIFM stops marketing the AIFs or where the marketing is no longer necessary due to changes in the AIF's structure or investor base. The CBDF Framework ensures that AIFMs do not abandon their regulatory obligations in host Member States simply because they are no longer actively marketing their AIFs in these jurisdictions. This maintains a level of regulatory consistency and transparency across the EU, which is essential for investor protection and market integrity. It helps to

maintain a level playing field for AIFMs across the EU and ensures that investors are protected from potential risks associated with cross-border marketing activities.

One should note however that during three years after de-notification of an AIF, the AIFM shall not engage in pre-marketing of units or shares of the EU AIFs referred to in the de-notification, or in respect of similar investment strategies or investment ideas, in the Member State identified in the de-notification.

### **6.1.2.4 Marketing communication rules**

CBDF Framework also set requirements regarding the content of AIF marketing communications, notably:

It should allow the communication to be "identifiable as such and describe the risks and rewards of purchasing units or shares of an AIF" and AIFMs shall ensure "that all information included in marketing communications is fair, clear and not misleading"; and

It should not contradict information contained in the pre-contractual disclosure according to Article 23 of AIFMD nor diminish its significance.

ESMA Guidelines on marketing communications under the CBDF Regulation further detail these rules by setting common principles on the identification of marketing communications and guidance on how certain information should be disclosed therein, while taking into account their on-line aspects. **CSSF Circular 22/795** provides for

the application of the ESMA Guidelines on marketing communications to Luxembourg AIFMs, which are integrated in the CSSF administrative practices and regulatory approach and provides details regarding their implementation in Luxembourg.

### 6.1.2.5 Reverse solicitation

In contrast with the AIFMD marketing passport or the NPPRs, reverse solicitation is not a distribution channel. It refers to situations where a professional investor, or its agent, approaches the AIFM/AIF on its own and exclusive initiative (i.e. without solicitation from them), with the intention of investing in (or initially in receiving information regarding) an AIF managed by such AIFM.

The CBDF Framework has changed the landscape with respect to reverse solicitation, de facto leading to its abolition. It should be noted that **pre-marketing notifications now exclude reverse solicitation for 18 months after an AIFM has started pre-marketing**. Any new subscription from a professional investor will be deemed to be the result of marketing and be subject to the already applicable AIFMD marketing notification procedure.

## Distribution Regime Summary

Passport Regime	Type of Vehicle	Type of Investors	Specificities
EU Passport	AIFs under AIFM framework	Professional	Unrestricted (unless SICAR)
EU Passport	EuVECA / EuSEF ELTIF	Professional and qualified Any (including retail investors)	EuVECA Min. Investment EUR 100,000
NPPR (country-by-country private placement regimes)	Simplified AIFM registration for AIFs	Professional	Unrestricted (unless SICAR)
Reverse solicitation	Any type of AIF	Professional	Basically incompatible with CBDF Framework
National retail distribution	Full AIFM passport regime / simplified AIFM registration regime	Any (including retail investors)	Typical structure: UCI Part II funds

## 7. Post-launch: ongoing management and operations

Luxembourg offers a business-friendly regulatory and tax framework that is aligned with EU directives and global standards. The country's legal and regulatory environment is stable, transparent, and adaptable, ensuring that non-EU fund managers can navigate both EU regulations and international market specificities with ease.

Luxembourg's well-regulated tax regime offers numerous incentives for fund structures, making it an attractive jurisdiction for establishing and managing investment funds.

This phase covers the life of a PE/VC fund from investment to liquidation. In the following section, certain Luxembourg-specific items are listed.

### 7.1 Accounting

#### 7.1.1 Accounting standards and audit requirements

All Luxembourg vehicles may choose to adopt Luxembourg Generally Accepted Accounting Principles ("Lux GAAP") or International Financial Reporting Standards ("IFRS") as adopted by the EU. The Special Limited Partnership can choose any accounting framework.

In practice, the standalone annual accounts of Luxembourg Private Equity vehicles are frequently prepared under Lux GAAP whereas consolidated annual accounts (whether legally required – see below – or contractually required (for example

through the raising of external financing) – are often prepared under IFRS as adopted by the EU. Through its international exposure, Luxembourg service providers have in most cases significant experience in the application of IFRS.

Note that while most companies are required to prepare annual accounts there are specific size thresholds that will determine if an audit by an approved statutory auditor under International Standards on Auditing ("ISA") is required by law.

#### 7.1.2 Luxembourg Consolidation Rules and Exemptions

For SCS, SCSp and any unregulated vehicles, Luxembourg law requires that limited liability companies, as well as the SNC and the SCS whose (general) partner (associé commandité) with unlimited liability are typically limited liability companies that control another company (i.e. the SNC or SCS, etc.) and thus prepare and publish consolidated financial statements. SCSp are generally not required to produce consolidated financial statements. If consolidated annual accounts are required, most companies today ensure that their preparation is actually done in Luxembourg, either internally or through specialised service providers.

In case of consolidation exemptions (sub-group; threshold; financial holding) and consolidation exclusions (immateriality; severe restrictions; disproportionate costs on obtaining financial information; subsequent resale; diverging activities), the consolidated accounts will still have to be published in Luxembourg according to the

local requirements and the notes to the annual accounts of the excluded company must disclose the name and registered office of the parent undertaking and the exemption from the obligation to draw up consolidated accounts and a consolidated annual report.

The Luxembourg Ministry of Justice issued a recommendation relating to the "subsequent resale" exclusion that allows Private Equity companies, for which all their subsidiaries are held for subsequent resale, not to present consolidated financial statements if certain conditions are met.

IFRS 10 Consolidated Financial Statements:

IFRS 10 specifies the requirements for preparing consolidated financial statements for those subsidiaries that the relevant entity controls. An entity is not required to consolidate its subsidiaries if it qualifies as an "investment entity". An investment entity is defined as an entity that:

1. Obtains funds from one or more investors for the purpose of providing those investor(s) with investment management services;
2. commits to its investor(s) that its business purpose is to invest funds solely for returns from capital appreciation, investment income or both; and
3. measures and evaluates the performance of substantially all of its investments on a fair value basis.

An investment entity is however required to account for its investments at fair value through profit or loss.

IFRS 10 is a significant judgement and will be impacted by the way the Private Equity investment(s) is (are) managed from Luxembourg.

The determination as to whether a company is in scope of the investment entity exemption under

RAIF, SICAR and SIF are specifically exempted by law from the consolidation requirement.

## 7.2 Reporting

The below chart summarises the reports to be produced for Luxembourg-based AIFs.

	RAIF	SIF	SICAR	SCSp
<b>Annual Accounts</b>	To be submitted to the CSSF max. 6 months after financial year-end	Same as for RAIFs	Same as for RAIFs	Not applicable unless AIFM is appointed
<b>AML/CFT questionnaire / Questionnaire on financial crime</b>	End of May each year to the AED	Beginning of April each year for self-managed SICAVs and registered (small) AIFMs to the CSSF	Beginning of April each year for self-managed SICAVs and registered (small) AIFMs to the CSSF	In case they qualify as an AIF, end of May each year to the AED (reporting shall start for the year 2024)
<b>RC annual report</b>	End of May each year to the AED	Five months after financial year end	Five months after financial year end	End of May each year to the AED
<b>SAQ</b>	N/A	Four months after financial year end to the CSSF	Four months after financial year end to the CSSF	N/A
<b>Separate Report</b>	N/A	Six months after financial year end to the CSSF	Six months after financial year end to the CSSF	N/A
<b>Management Letter</b>	N/A			N/A

Below-threshold AIFs, i.e. funds with assets below €500 million / €100 million if leveraged (Part II funds, SIFs, SICARs, limited partnerships, SOPARFIs) are only subject to limited reporting.

## 7.3 Valuation

Luxembourg accounting rules have always been a primarily prudence-focused framework permitting the booking of investments at cost less durable impairment with the recognition only of unrealised losses and not of unrealised gains in the profit and loss accounts of a company. The creation of PE vehicles such as SICAR, SIF and RAIF and the harmonisation derived from EU accounting directives have led to apply the Fair Value as a standard. Today, different valuation principles are allowed. Often, a fund applies the Fair Value principle while its SPVs are **accounted for at cost**.

Companies adopting IFRS as an accounting framework have to apply valuation policies depending on the type of instruments being valued. In Luxembourg, valuation practices are increasingly aligned with the International Valuation Standards (IVS) and International Private Equity and Venture Capital Valuation (IPEV) Guidelines, the last one is widely recognized as the industry guidelines for

determining fair value in private equity, venture capital and private debt. The IPEV guidelines provides a consistent framework for valuing investments in accordance with IFRS and are referenced by both regulated and unregulated funds domiciled in Luxembourg.

The IPEV Guidelines are particularly relevant for:

- ▶ RAIFs, SIFs, and SICARs, which typically adopt fair value methodologies.
- ▶ Unregulated SCSp and SCS structures, where valuation rules are contractually defined but often follow IPEV principles.
- ▶ Funds targeting institutional and international investors, who expect transparent and standardized valuation approaches.

Under Lux GAAP there is a certain level of additional flexibility and possible choices as outlined in the following table:

Type of vehicle / regulatory framework	Valuation under Lux GAAP
<p><b>Unregulated SCS and SCSp</b></p>	<p>The valuation rules to follow can be freely determined in the partnership agreement. In practice these rules will follow internationally recognised principles of determining fair value.</p>
<p><b>Other unregulated vehicles</b></p>	<p>Valuation rules are governed by the law of 19 December 2002, as amended.</p> <p>There are two valuation options:</p> <ol style="list-style-type: none"> <li>1. Acquisition cost/principal less any durable impairment</li> <li>2. Fair value.</li> </ol> <p>The choice of which method to use rests with the management of the company. As a general rule, companies and SPVs tend to adopt option 1).</p>
<p><b>SICAR, SIF, RAIF</b></p>	<p>SICARs, SIFs and RAIFs may freely determine their valuation methodology, while the legal default position remains a valuation at fair value. Generally the constitutive documents of the relevant SICAR, SIF, RAIF (i.e. its Offering Memorandum (“OM”), and/or its Partnership Agreement or Article/By-laws) will contain more detailed explanations with regard to the applicable valuation.</p>

With the increasing success of ELTIF and other semi-open funds targeting not only professional investors, valuation frequency and robustness have become more critical. The effect of “retailisation” on valuations means that possibly more frequent valuations need to be performed and redemptions at specific valuation dates may need to be considered, triggering robust,

transparent and fair valuation processes. For these “semi-open” funds transactional NAVs pose a certain risk which would need to be discussed with investors and service providers. Furthermore, the Luxembourg financial regulator requires that NAV reporting be aligned with the valuation frequency to ensure consistency and transparency in investor disclosures.

## 7.4 AML/KYC

On 25 November 2019, the CSSF published a FAQ regarding the persons to be involved in anti-money laundering and counter terrorist financing (the “**AML/CTF**”) for Luxembourg regulated investment funds and Luxembourg investment fund managers, which are supervised by the CSSF for AML/CTF purposes. Although the relevant CSSF regulation and the CSSF FAQ do not directly apply to RAIFs and unregulated AIFs, these funds may nevertheless decide to follow the clarifications provided, the case being with the required adaptations, to the extent that RAIFs and unregulated AIFs also qualify as professionals within the meaning of, and are subject to, the AML/CTF law of 12 November 2004, as amended.

While the CSSF supervises the compliance of regulated AIFs with their AML/CTF obligations, these checks will be carried out by the Administration de l'Enregistrement et des Domaines” (the “**AED**”) for RAIFs and unregulated AIFs.

To maintain integrity and adherence to regulatory requirements in the financial sector, the Luxembourgish regulator has imposed on fund structures a two-fold compliance control by appointing two different persons: a “responsable

du respect des obligations professionnelles” (the individual responsible for compliance with professional obligations, the “**RR**”) and a “responsable du contrôle du respect des obligations professionnelles” (compliance officer managing control of compliance with professional obligations, the “**RC**”). The RR will generally be the fund's management body acting collectively, or one of its members. The RC will generally be a manager sitting on the fund's management body or the RC of the AIFM of the fund, thus a third-party RC, appointed in accordance with various criteria.

While the RR focuses on ensuring compliance with AML/CFT professional obligations, the RC is responsible for overseeing and controlling such compliance. The RC must have sufficient knowledge and expertise in AML/KYC legislation, while the RR is responsible for ensuring that professional obligations are met. By having two individuals responsible for AML/CTF compliance, the fund and the AIFM can mitigate the risk of financial crime, reputational damage, and regulatory sanctions. As such, the appointment of an RC and RR strengthens the governance structure of the investment fund, ensuring that compliance responsibilities are clearly defined and overseen by competent individuals.

### Highlights:

The **CSSF FAQ (Nov 2019)** clarifies AML/CTF responsibilities for Luxembourg-regulated investment funds and fund managers, though **RAIFs and unregulated AIFs** may still choose to follow its guidance.

**Regulatory oversight:** The **CSSF** supervises regulated AIFs, while the **AED** oversees RAIFs and unregulated AIFs for AML/CTF compliance.

Dual compliance roles: Funds must appoint and a RR (responsable du respect) for ensuring compliance an RC (responsable du contrôle) for monitoring and controlling compliance.

This two-person control system strengthens governance, mitigates financial crime risks, and ensures adherence to AML/CTF obligations.

## 7.5 DORA

The DORA Regulation ((EU) 2022/2554) of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector, or the Digital Operational Resilience Act (the "DORA"), was published in the Official Journal of the EU on 27 December 2022. The DORA came into force on 16 January 2023 and is applicable since 17 January 2025.

Resilience Act (the "DORA"), was published in the Official Journal of the EU on 27 December 2022. The DORA came into force on 16 January 2023 and is applicable since 17 January 2025.

The DORA is designed to bolster the IT security of financial entities, including banks, insurance companies and investment firms, ensuring that the financial sector within Europe maintains resilience in the face of significant operational disruptions. This regulation emerges against a backdrop where the financial sector's growing reliance on technology and technological companies for the provision of financial services has heightened its exposure to cyber threats and incidents.

### DORA addresses six key areas:

**1. ICT risk management:** It is imperative for financial institutions to establish and maintain a robust, comprehensive and meticulously documented ICT risk management framework. This framework should be integrated within the institution's overarching risk management system and is subject to regular reviews and audits.

**2. ICT third-party risk management:** DORA seeks to mitigate ICT third-party risk by setting principle-based rules that govern the monitoring of

risks associated with outsourced activities. It also mandates that outsourcing agreements adhere to specific minimum contracting standards.

**3. Digital operational resilience testing:** Financial institutions are mandated to develop and execute thorough and resilient testing strategies. In certain scenarios, more sophisticated testing is mandated, including threat-led penetration (PEN) testing, which must be conducted at a minimum of every three years.

**4. ICT-related incidents:** Incidents deemed as "major" must be reported to the relevant authorities within stringent deadlines. These reporting obligations necessitate that financial institutions reassess and refine their existing internal incident reporting procedures and, where applicable, their outsourcing arrangements.

**5. Information sharing:** To foster a collaborative approach to cyber threat mitigation, financial institutions are permitted to share information regarding cyber threats with one another, albeit under specific conditions.

**6. Oversight of critical third-party providers:** Financial institutions are obliged to adhere to fundamental principles regarding their internal control and governance structures. This includes the responsibility for the ICT risk management framework being placed at the management board level.

Consequently, DORA is set to exert a considerable influence and will demand substantial efforts from qualifying financial institutions, their counterparts and ICT third-party service providers to ensure compliance is achieved in a timely manner.

## 7.6 Sustainable Finance

The Regulation ((EU) 2019/2088) of the European Parliament and of the Council of 27 November 2019 on sustainability related disclosures in the financial services sector (the "SFDR") was published in the Official Journal of the EU on 9 December 2019. The SFDR came into force on 29 December 2019 and has been applicable since 10 March 2021. The EU has put in place a transparency framework

to set out how financial market participants have to disclose sustainable information and to help investors who seek to put their money into companies and project supporting sustainability objectives make informed choices. The SFDR further helps to allow investors to properly assess how sustainability risks are integrated in the investment decision process.

Under the SFDR, three product categories can be found:

- ▶ **Article 6 products:** these are funds without a sustainability scope (“Article 6 Funds”);
- ▶ **Article 8 products:** these are funds that promote ESG characteristics (“Article 8 Funds”); and
- ▶ **Article 9 products: these are funds that have sustainable investment as their objective** (“Article 9 Funds”).

It is important to note that managers of Article 6 Funds still need to comply with the pre-contractual disclosure of the integration of sustainability risks, regardless of whether the fund is promoting ESG or not.

To avoid greenwashing, only Article 8 Funds and Article 9 Funds may advertise ESG or sustainable features. If another product has an ESG label, it must clearly mention that it is not an Article 8 Fund or an Article 9 Fund. Any fund which is not an Article 9 Fund may only use the term “sustainable” in its marketing materials provided it mentions clearly that it is not an Article 9 Fund. As such, the categorisation of a product under Article 8 or Article 9 must be realistic and consistent with the investment policies adopted.

The disclosure is imposed on both legal entity-level as well as on financial product-level:

- ▶ On entity-level, information to clients must be disclosed on their website, even if no ESG focus or strategy is adopted, and the same goes for the policies. However, it is interesting to note that if the firm does not consider the adverse

impact of investment decision on sustainability, its policies must contain information on why such impact is not considered.

- ▶ On product-level, mandatory disclosures apply for ESG products that are UCITS, AIFs, insurance products and portfolios under discretionary and individualised management that promote sustainable investment under Article 8 or Article 9. As such, prospectuses and pre-contractual information must reflect the information required by these articles.

Since the SFDR came into effect in March 2021, the sustainable investment sector has grown significantly. However, many funds have been downgraded from Article 9 (more sustainable) to Article 8 (less stringent) due to the evolving regulation and the lack of clear distinction between ESG and Paris-aligned approaches. To reduce uncertainty, the European Commission has issued amendments and many managers have opted for this reclassification to remain compliant. While the requirements for Article 9 are strict, the Commission is assessing improvements to the framework and ESMA has published guidelines to tackle greenwashing.

## 7.7 Tax

One of the key factors in favor of Private Equity operations in Luxembourg remains its tax environment. A stable tax framework, a highly competitive social security system (for companies, employers and employees) and the lowest VAT rate in Europe greatly contribute to making Luxembourg

one of Europe’s most attractive jurisdictions for Private Equity operations and investments. Of key importance remains, however, the double tax treaty network that Luxembourg has built up over many years.

### 7.7.1 Taxation of Luxembourg PE vehicles

The Luxembourg tax environment is extremely beneficial for Private Equity structures, both regulated and unregulated.

	SOPARFI	SICAR	SIF	RAIF
<b>Double Tax Treaty access</b>	Yes	Yes	Yes (depending on the DTTs)	Depends on the legal form and the DTTs
<b>CIT</b>	Yes	Yes (unless exemption income arising from transferable securities in risk capital applies)	No	No (SIF like)
<b>MBT</b>				Yes (unless exemption income arising from transferable securities in risk capital applies)
<b>NWT</b>				
<b>Subscription Tax</b>	No	No	Yes	Yes (SIF like) No (SICAR like)
<b>WHT on dividends (15%)</b>	Yes	No	No	No

### 7.7.1.1 The SOPARFI

As a standard commercial company subject to normal corporate taxation and not subject to a specific regulatory regime, the SOPARFI benefits from Luxembourg's extensive network of double-taxation treaties. Despite being a fully

taxable company, the SOPARFI benefits from the provisions of the EU Parent-Subsidiary Directive as transposed into domestic law providing, under certain conditions, for a full exemption for dividends and capital gains upon exit.

### 7.7.1.2 The SICAR

SICARs can be created using different corporate forms.

- ▶ SICARs in the form of a partnership (SCS or SCSp): SICARs are tax transparent and thus generally not subject to corporate income tax, unless caught by the Reverse Hybrid Rule. They are also not subject to net wealth tax or municipal business tax. Income and gains may furthermore be paid to investors without any Luxembourg source taxation.
- ▶ SICARs in the form of a corporation (SA, cooperative in the form of a public limited company – SCSA, S.à r.l., partnership limited by

shares - SCA): Those are fully taxable companies. Income from transferable securities qualifying as investments in risk capital as well as income from the transfer, contribution or liquidation of these securities are however tax exempt. An exemption is also available for income derived from funds held pending their investment in risk capital. This exemption however only applies for a maximum period of 12 months preceding the investment of the funds in risk capital and providing the funds have effectively been invested in risk capital. SICARs are not subject to net wealth tax (except for the minimum net wealth tax). Dividend distributions will also not be subject to Luxembourg taxation at source.

### 7.7.1.3 The SIF

SIFs, irrespective of their legal form, are not subject to any Luxembourg taxes on capital gains or income; the sole tax due is a subscription tax of

0.01% (exemptions exist) based on the quarterly net asset value. SIFs in corporate form can moreover claim access to certain double tax treaties.

## 7.7.1.4 The RAIF

In principle, RAIFs will be subject to the same tax regime as SIFs (see above). However, optionally,

RAIFs investing in risk capital assets can opt for the SICAR regime (see above)



*Luxembourg RAIF regime was a game changer for emerging managers, it allows us to focus on our core activity - developing pipeline of deals and fundraising, while being able to rely on external expertise for all other functions. It gives the necessary flexibility to accommodate investors with different strategies and requirements, while also optimising the operating cost.*

**Odyssey Impact Investments**

**Marina Mouravieva, Partner**



## 7.7.2 Luxembourg's double tax treaty network

Luxembourg has bilateral tax treaties with all EU Member States and with a number of other countries (including almost all OECD<sup>9</sup> Member States). This network of tax treaties is constantly being expanded.

SOPARFIs, SICARs and RAIFs in corporate form that have opted for the SICAR regime are, from a Luxembourg perspective, entitled to treaty benefits and therefore benefit from double tax treaties concluded by Luxembourg.

The application of tax treaties to SIFs and RAIFs in corporate form that have not opted for the SICAR regime is to be assessed on a case-by-case basis depending on the wording of the treaty provisions and their interpretation by the relevant foreign authorities.

Investment vehicles set up as fiscally transparent entities may generally not benefit from treaty provisions due to their tax transparency (but potentially investors may, at their own level).

## 7.7.3 Luxembourg taxes

### 7.7.3.1 Corporate income tax and municipal business tax

Corporate income tax applies to all tax resident corporations on their worldwide income unless income is exempt under the provisions of applicable tax treaties or specific domestic tax law. Foreign withholding taxes may generally be credited against the Luxembourg corporate income tax due. In addition, if no treaty applies, there is a possibility of obtaining tax credits for foreign taxes paid. Foreign corporations are subject to corporate income tax only on their income derived from Luxembourg sources. Partnerships, other than those limited by shares or reverse hybrid entities, are regarded as transparent for Luxembourg tax purposes and are therefore not subject to corporate income tax at their own level. Income distributed by such entities will be considered, from a Luxembourg tax point of view, as flowing through the entity and allocated directly to investors.

Corporate income tax currently amounts to 17% for taxable income exceeding EUR 200,000. In

addition, a contribution of 7% on corporate income tax is payable to the Luxembourg employment fund. Consequently, the global rate applicable amounts to 18.19% (FY2024). The Government announced a rate decrease to 16% as from tax year 2025, resulting in a global rate of 17.12%.

Luxembourg corporations and permanent establishments of foreign corporations are also subject to municipal business tax, whose rate depends on the municipality in which the company or the permanent establishment is located. The rate for the municipality of Luxembourg City is currently 6.75% (FY2024), resulting in a combined corporate income tax and municipal business tax rate of 24.94% for Luxembourg City.

Partnerships carrying on a commercial activity are liable to municipal business tax at their own level. However, this is not generally expected to be applicable to partnerships in a PE fund context that would typically not carry on a commercial activity.

<sup>9</sup> Organisation for Economic Cooperation and Development

### 7.7.3.2 Subscription tax

The Taxe d'Abonnement is a subscription tax levied on the net asset value (NAV) of Luxembourg-based investment funds. The standard rate for most investment funds is 0.05%, but for certain types of funds such as Private Equity funds, especially those structured as SIFs or SICARs, the rate is reduced to 0.01%.

Luxembourg offers an ESG-related reduction in the Taxe d'Abonnement for funds that meet certain sustainable investment criteria. Specifically, funds

that demonstrate a strong commitment to ESG factors, or align with EU regulations like the Sustainable Finance Disclosure Regulation (SFDR) or the EU Taxonomy, can qualify for the 0.01% rate.

This ESG-related reduction incentivises investment funds to adopt sustainable strategies, making Luxembourg an attractive hub for funds targeting sustainable investments, while also supporting the EU's broader sustainability goals.

### 7.7.3.3 Net wealth tax

Luxembourg corporations are liable to net wealth tax on their worldwide wealth (exemptions apply), while foreign corporations are subject to net wealth tax on their Luxembourg net wealth only. Luxembourg partnerships (other than partnerships limited by shares) are generally not subject to net wealth tax.

The net wealth tax due by Luxembourg resident corporations is the higher of the net wealth tax calculated on the unitary value (minus reduction, if applicable) and the minimum net wealth tax. Minimum net wealth tax does not apply to foreign corporations. SIFs and RAIFs that apply the standard RAIF regime are exempt from net wealth tax, while SICARs and RAIFs applying the SICAR regime are subject to the minimum net wealth tax only.

The net wealth tax on unitary value is levied at a rate of 0.5% on the company's worldwide net wealth on 1 January up to a value of EUR 500 million, and 0.05% on any amount in excess, subject to certain adjustments (e.g., for qualifying shareholdings, which are exempt from net wealth

tax). Luxembourg tax law allows a NWT reduction equal to one fifth of a special reserve created for a given tax year; the reserve has to be kept for the following five years. The amount of NWT that can be reduced is limited to the amount of CIT (including the employment fund contribution), before any tax credits, that is due for the preceding tax year.

The minimum net wealth tax is either ranging from EUR 535 to EUR 32,100, depending on the balance sheet total at the closing of the preceding financial year or a fixed amount of EUR 4,815 (if certain conditions are met). A draft law currently pending before Parliament aims to amend the existing minimum net wealth tax rules as of 2025, linking the amount of minimum net wealth tax solely to the company's balance sheet total, with amounts ranging between EUR 535 and EUR 4,815. In case the minimum NWT is applicable, it is reduced by the amount of CIT (including the employment fund contribution but after deduction of possible tax credits) due by the company for the preceding year.

### 7.7.3.4 Capital gains taxation for non-residents

If a non-resident shareholder is resident (for tax purposes) in a country that has a double tax treaty with Luxembourg, the treaty will generally not allow Luxembourg to tax capital gains on shares in a Luxembourg company. In the event that no such double tax treaty exists or can be applied, capital gains on the sale of shares in a Luxembourg company are subject to tax in Luxembourg only if the non-resident shareholder holds or has held a substantial interest in the Luxembourg company and the transfer occurs within six months of the acquisition or, in the event of a transfer after six months, the non-resident shareholder has been a

Luxembourg resident taxpayer for more than 15 years and has become a non-resident taxpayer less than 5 years before the disposal takes place. For this purpose, a substantial interest exists if a shareholder, either alone or together with certain close relatives, has held a shareholding of more than 10% in a Luxembourg company at any time during the five-year period preceding the transfer.

However, capital gains realised by non-resident investors on shares in a SIF and RAIF that has the legal form of a corporation or in a SICAR as well as in a SV are fully exempt from Luxembourg tax.

### 7.7.3.5 Global minimum tax

As of 31 December 2023, Luxembourg entities (including entities without legal personality and certain “arrangements”) that are members of a multinational enterprise group or a large-scale domestic group with annual revenues as reflected in the Ultimate Parent Entity’s consolidated financial statements of at least EUR 750 million in at least two of the last four financial years, may be subject to Global Minimum Tax, in the form of a Qualified Domestic Minimum Top-up Tax, an Income Inclusion Rule (IIR) top-up tax and/or an Undertaxed Profits Rule top-up tax. These taxes are based on the Luxembourg implementation of the Pillar Two Directive, which provides a common framework for EU Member States to implement the Model Rules on the Pillar two Global Minimum Tax (GloBE), as agreed by the G20/OECD Inclusive Framework on Base Erosion and Profit Shifting (BEPS).

The Directive introduces minimum effective taxation for large multinational groups and large-scale domestic groups by setting forth a system through which an additional amount of top-up tax should be collected each time that the effective tax rate due on the income of a multinational enterprise group in a given jurisdiction is below 15%.

The rules generally apply to entities that are included in consolidated accounts of a parent entity on the basis of a line-by-line consolidation (or joint-venture entities provided certain conditions are met) and foresee certain exemptions for investment funds. While in most cases investment funds are not expected to be affected by the new rules, where an investment fund or a sub-fund is consolidated, the Global Minimum Tax implications should be evaluated on a case-by-case basis.

### 7.7.3.6 Withholding taxes

A withholding tax of 15% is levied on dividend payments (17.65% if the dividend tax is not charged to the shareholder) unless an applicable tax treaty provides for a lower rate, or the Luxembourg participation exemption regime reduces withholding tax to 0%. Liquidation proceeds are not subject to withholding tax.

Arm’s length fixed or floating rate interest payments are generally also not subject to withholding tax. Interest paid on certain profit-sharing bonds and profit-sharing interest paid on loans may be subject to the same 15% withholding tax unless a lower tax treaty rate applies.

### 7.7.3.7 Tax treatment of carried interest

In the law transposing the AIFM directive, a regime for the taxation of carried interest from AIFs was also introduced.

The share of profits derived from an AIF and paid to AIFM employees is treated as ordinary income and subject to progressive tax rates in the hands of the recipient (marginal rate of 45.78% for 2024) on global income.

Under certain conditions, income derived from the carried interest could be regarded as income from capital or capital gains income. Under the standard rules for capital gains rules, if the gain is realised after a 6-month period, it would potentially not be subject to taxation.

If the employee satisfies certain conditions, the carried interest would be taxable at one quarter of

the individual’s personal income tax rate. These conditions are:

- ▶ The employee became resident in Luxembourg in 2013 or within 5 years after July 22, 2013.
- ▶ The employee has not, before migrating to Luxembourg, been resident for tax purposes in Luxembourg or been subject to Luxembourg individual income tax with respect to professional income in the 5 years prior to July 22, 2013.
- ▶ No advance payments for carried interest have been paid to the employee.
- ▶ The remuneration is paid within 10 tax years after the year when the employee began to perform the functions for which the carried interest is paid.

### 7.7.3.8 Thin capitalisation and transfer pricing rules

Transfer pricing rules and requirements apply to transactions between related parties. Under these rules, if transactions between related parties do not meet the arm's-length principle, any profits that would have been realised by one of the enterprises under normal (i.e. arm's length) conditions are

included in the profits of that enterprise and taxed accordingly.

Luxembourg tax law does not contain any specific thin capitalisation rules. However, thin capitalisation limits are inferred from the general transfer pricing rules.

### 7.7.3.9 EU anti-tax avoidance directives

Luxembourg implemented the two EU anti-tax avoidance directives (known as ATAD I and II) that were issued in response to the OECD BEPS Project. As a result:

- ▶ The deductibility for tax purposes of interest may be limited in certain circumstances;
- ▶ Controlled foreign companies (known as CFC) rules apply, according to which income of a CFC that is not distributed directly to the Luxembourg controlling entity and that results from "non-genuine arrangements" put in place for the essential purpose of obtaining a tax advantage is included in the Luxembourg entity's taxable income to the extent that it arises from assets and risks in relation to which the Luxembourg entity carries out significant people functions;
- ▶ Anti-hybrid rules<sup>10</sup> apply whereby Luxembourg denies the deduction of a payment, expense or loss to the extent that there is a deduction of the same payment, expense or loss in Luxembourg and in another State (double deduction) or there is a hybrid mismatch that results in a deduction (in Luxembourg) without corresponding inclusion in another State involved in the mismatch; or taxes income derived under a hybrid arrangement if the source country has not addressed the mismatch. Reverse hybrid entities or arrangements that are established in Luxembourg (e.g., SCSps that are considered as not being transparent by relevant investor jurisdictions) may also be subject to Luxembourg corporate income tax. This does however not apply to Luxembourg entities or

arrangements that qualify as collective investment vehicles within the meaning of the ATAD Law.

The implementation of the directives also resulted in a clarification of the scope of the Luxembourg general anti-avoidance rule (GAAR). As reworded, the GAAR provides that tax law cannot be circumvented by an abuse of forms or institutions of law; such abuse occurs if a legal path is used, at least one of whose principal objectives is to obtain a circumvention or reduction of taxation that defeats the object or purpose of the tax law and is not authentic, i.e., is not put in place for valid commercial reasons which reflect economic reality.

<sup>10</sup> The concept of "acting together" was also introduced, which leads to aggregating the voting rights or capital ownership that different persons (individuals or "organism") hold in the same entity if they are considered as "acting together." The acting together test covers the scenario where persons agree that a third person can act on their behalf in respect of voting rights or equity interests that they hold. Alternatively, they may agree amongst themselves that their ownership/voting rights are managed by one of them, rather than by a third person. Under the Luxembourg law, a person who, directly or indirectly, owns less than 10% of an investment fund and is entitled to less than 10% of the profits of the investment fund will, unless there is proof to the contrary, not be considered "acting together" with another person participating in the fund. For this purpose, an investment fund is defined as a collective investment undertaking that raises capital from a number of investors with a view to investing it in accordance with a defined investment policy for the benefit of those investors.

### 7.7.3.10 Automatic exchange of information

Luxembourg implemented the inter-governmental agreement (“Luxembourg IGA”) with the United States of America with respect to the US Foreign Account Tax Compliance Act (“FATCA”) through the law of 24 July 2015 (“FATCA Law”). Under the Luxembourg IGA and FATCA Law, Luxembourg financial institutions (including in certain cases SICARs, SIFs, RAIFFs or SOPARFIs) are required to provide certain information about their US account holders to the Luxembourg tax authorities, which will share that information with the US Internal Revenue Service (“IRS”) on an annual basis. Luxembourg financial institutions that do not comply with their FATCA obligations risk being subject to a 30% US withholding tax on their US source income in addition to local penalties.

Under the Common Reporting Standard (CRS) Law which implemented Directive 2014/107/EU (DAC2), Luxembourg financial institutions (including in certain cases SICARs, SIFs, RAIFFs or SOPARFIs) are required to collect certain information about their account holders that are tax resident in a EU Member State or in a country with which Luxembourg has a tax information sharing agreement, and to report this information to the Luxembourg tax authorities. The Luxembourg tax

authorities will thereafter automatically exchange the information with the relevant foreign tax authorities on an annual basis. Luxembourg financial institutions that do not comply with their CRS obligations may be subject to local penalties (no withholding tax penalty system).

Finally, under the Mandatory Disclosure Rules (MDR) implemented in Luxembourg through the transposition of Directive 2018/822/EU (DAC6), intermediaries must report transactions and arrangements that are considered by the EU to be potentially aggressive. To be reportable, an arrangement needs to meet the definition of being cross-border (involving one or more EU Member States or involving one EU Member State and a third-party country) and must meet one or more of the conditions that are defined through hallmarks<sup>11</sup>. If there are no intermediaries that can report, the obligation will shift to the taxpayers. Following the reporting of the arrangements, the information about the arrangements will automatically be exchanged between Member States. Any potential reporting obligations must be complied within 30 days from the triggering events stipulated in the MDR law.

### 7.7.3.11 Value added tax

The Luxembourg standard rate of 17% is the lowest in the EU, compared with an average of 21.6% in the other EU Member states. The Luxembourg VAT regime furthermore exempts from VAT management services provided to undertakings for collective investment, including notably UCITS, UCIs, SIFs and AIFs.

This exemption is applicable on portfolio management, risk management services, advisory services and certain administrative services. Due to

this exemption and the low VAT rate, the VAT burden of SICARs, SIFs and other alternative investment funds is limited.

This exemption is however not available to SOPARFIs unless they qualify as an AIF. Assuming their activity is limited to the ownership of shares, SOPARFIs are not obliged to register for VAT and they cannot recover the VAT incurred on their costs, except if they acquire goods or services from abroad.

<sup>11</sup> One of the hallmarks (C1) refers to an arrangement that involves deductible cross-border payments made between two or more associated enterprises where:

- recipient is not resident for tax purposes in any tax jurisdiction or the recipient is resident for tax purposes in a jurisdiction that either does not impose any corporate tax or imposes corporate tax at the rate of zero or almost zero; or is included in a list of third-country jurisdictions which have been assessed by Member States collectively or within the framework of the OECD as non-cooperative; or
- the payment benefits from a full exemption from tax/ preferential tax regime in the jurisdiction where the recipient is resident for tax purposes.

The term associated enterprise covers (a) a person that participates in the management of another person by being in a position to exercise a significant influence over the other person; (b) a person participates in the control of another person through a holding that exceeds 25 % of the voting rights; (c) a person participates in the capital of another person through a right of ownership that, directly or indirectly, exceeds 25 % of the capital; (d) a person is entitled to 25 % or more of the profits of another person. In parallel, the concept of associated enterprise is extended to a person who acts together with another person in respect of the voting rights or capital ownership of an entity; they shall be treated as holding a participation in all the voting rights or capital ownership of that entity that are held by the other person.

There is a general presumption that investors in a fund in the form of a limited partnership managed by a general partner are acting together for the purposes of identifying associated enterprises under the C1 hallmark(s). This results in the aggregation of all investor ownership positions for the purposes of identifying “associated enterprises” of the fund and its subsidiaries.

### 7.7.3.12 Registration duty and transfer taxes

A fixed registration duty of EUR 75 is due upon incorporation and modification of the articles of incorporation of a Luxembourg company or upon transfer of the statutory seat or place of central

administration of a company to Luxembourg. Transfer taxes on the sale of local real estate amount to 7% (10% for certain types of real estate located in Luxembourg City).

## 7.7.4 Miscellaneous charges and fees

### 7.7.4.1 Chamber of commerce fees

All Luxembourg commercial companies are subject to an annual contribution ranging from 0.02% to 0.025% based on the relevant taxpayer's profit generated in the penultimate fiscal year before the

relevant year. This contribution is capped at EUR 350 for SOPARFIs, however the company in question must be coded with the correct NACE code in order to benefit from this cap.

### 7.7.4.2 CSSF fees

Prudential oversight comes at a cost to the entities supervised. An annual lump sum of EUR 4,650 is to be paid by each single compartment fund, SIF and SICAR. For multiple compartment funds, SIFs and

SICARs, the amount ranges between EUR 9,250 and EUR 40,500 depending on the number of compartments.

## 7.7.5 Personal taxation

Luxembourg has some of the lowest effective taxes and social security charges for individuals among EU Member States.

### 7.7.5.1 Social security

Social security contributions are computed on the annual gross remuneration capped at EUR 154,255. Self-employed persons are subject to a 23% rate on their gross professional income, also capped at EUR 154,255.

In addition, employees and self-employed persons are subject to 1.4% dependency contribution

(assurance dependence) assessed on their annual gross professional income (uncapped). This dependency contribution applies to all income (and not only to employment or self-employed income) in the hands of taxpayers who are subject to the Luxembourg mandatory State social security regime.

## 7.7.5.2 Income tax

Resident taxpayers are subject to income tax on their worldwide income. Non-resident taxpayers are only subject to income tax on Luxembourg-sourced income. Taxable income is assessed based on total income less exemptions, deductible expenses and allowances. The law provides for many exemptions and deductions especially for families with children. Income tax is progressive with rates between 0% and maximum 42% and is assessed based on the taxpayers' family status.

This tax rate is itself increased by an employment fund contribution of 7% or 9% (depending on the family status and level of income) resulting in a top marginal rate of 45.78%. In principle, personal tax is assessed based on an annual tax return that must be lodged by taxpayers. A withholding tax is levied on employment income (progressive withholding

tax scale) and directors' fees (20% flat withholding under conditions). Withholding taxes on employment income and director's fees are creditable against the taxpayer's final income tax liability.

A special regime for highly skilled workers ("HSWs"), who are seconded to a Luxembourg undertaking belonging to an international group or are recruited from abroad by a Luxembourg undertaking, has been applicable since 1 January 2011. This special regime consists – subject to certain conditions – of an exemption from Luxembourg personal income tax on certain expenses and allowances paid to or on behalf of HSWs due to their expatriation. However, these expenses and allowances remain tax deductible costs for the Luxembourg undertaking.

## 7.7.5.3 Net wealth tax

There is no net wealth tax for individuals.

## 7.7.5.4 Inheritance/gift tax

Inheritance tax is due on the value of all property inherited from a Luxembourg resident whereas transfer tax is due on the value of real property located in Luxembourg that is inherited from a non-resident. Where the heir is a direct descendant or a

spouse with children, there is in principle no inheritance tax liability. Gift tax rates vary according to the degree of kinship between the donor and the donee, ranging from 1.8% to 14.4%.

## 8. Trends and legal updates

### 8.1 AIFMD II

The AIFMD was amended by Directive (2024/927) of the European Parliament and of the Council of 13 March 2024 regarding delegation arrangements, liquidity risk management, supervisory reporting, the provision of depositary and custody services and loan origination by alternative investment funds (the "AIFMD II").

AIFMD II implements various changes, including but not limited to:

- ▶ Loan origination regime;
- ▶ Depositary regime;
- ▶ Delegation arrangements;
- ▶ AIFM permitted activities;
- ▶ Substance;
- ▶ Supervisory reporting;
- ▶ Disclosure to investors and
- ▶ Liquidity management tools.

Regarding loan origination, AIFMD II aimed at introducing an EU framework the purpose of which is to (i) set a minimum playing field for loan origination activities and (ii) set forth certain additional requirements applicable only to the so-called "loan-originating AIFs", which are defined as (a) AIFs whose investment strategy is mainly to originate loans; or (b) where the notional value of the loans originated by such AIFs represents at least 50% of their net asset value ("NAV").

With respect to loan origination activities, several rules applicable to any AIF carrying out such activity have been set, raising the bar of the minimum playing field, including but not limited to prohibition of "originate to distribute" strategies, risk retention requirement and lending limit.

AIFMD II introduces specific limitations and restrictions applicable to the loan-originating AIFs which shall in principle be close-ended; however open-ended loan-originating AIFs are authorised to the extent that they implement adequate liquidity risk management tools as approved by the AIFM national competent authority. A leverage limit is set for both type of funds: 300% for closed-end Loan-originating AIFs and 175% for open-ended Loan-originating AIFs.

Although the idea of a "depositary passport" has been dropped, the amending Directive has revised

the rules concerning the AIFM's depositary, which can now be located in a different Member State under exceptional circumstances, but never in a high-risk third country, with approval from the AIF's competent authorities. Additionally, the role of investor central securities depository (CSDs) has been clarified as a delegation of the depositary's custody functions. In other words, a level playing field has been created among custodians to ensure that depositaries have access to the information needed to carry out their duties and, to avoid unnecessary work, depositaries are not required to perform ex ante due diligence where they intend to delegate custody to CSDs.

AIFMD II emphasises the importance of delegation and will permit for non-core services to be carried out by the AIFM without the necessity for authorisation to provide discretionary portfolio management. Furthermore, activities such as "originating loans on behalf of an AIF" and "servicing securitisation special purpose entities" have been included in the repertoire of functions an AIFM may undertake. Nonetheless, an AIFM is not permitted to solely offer these additional functions.

Regarding governance of AIFMs, the rules are becoming stricter. AIFMs will need to provide more information when applying for authorisation, including regarding substance. In addition, AIFM's business operations must be determined by conducting officers which must be natural persons domiciled in the EU demonstrating a high level of commitment to conducting the AIFM's business. This is a welcomed addition which aims to provide the supervisory authorities of the Member States with a clear and consistent idea on the substance and operations of the AIFM.

AIFMD II also introduces harmonised reporting standards, yet to be defined through level 2 measures. That said, it is expected that Luxembourg AIFMs are already complying with quite a substantial part of the newly agreed rules due to the existing substance requirements and reporting duties set out by the CSSF circular 18/698 on substance.

Regarding disclosures to investors, AIFMD II

includes new items, notably:

**Pre-contractual disclosures:**

- ▶ name of the AIF;
- ▶ for open-ended funds, in addition to the existing description of the AIF's liquidity risk management, information on the possibility and conditions for using liquidity management tools; and
- ▶ a list of fees, charges and expenses that are borne by the AIFM in connection with the operation of the AIF and that are to be directly or indirectly allocated to the AIF.

**Periodical disclosures:**

- ▶ the composition of the originated loan portfolio (if any);
- ▶ on an annual basis, all fees and charges that were directly or indirectly borne by investors; and
- ▶ on an annual basis, any parent undertaking, subsidiary, or special purpose vehicle (SPV) utilised in relation to the AIF's investments by or

on behalf of the AIFM.

- ▶ AIFMD II expands the requirements related to liquidity management of AIFs. For instance, EU AIFMs that manage open-ended AIFs must in principle select at least two additional liquidity management tools (LMTs) out of a list set out in a new Annex V of AIFMD II which provides notably for the following LMTs: suspension of redemptions and subscriptions, redemption gates, notice periods and deferrals of payment.

AIFMs will be required to implement policies and procedures for the activation and deactivation of any selected LMT and the operational and administrative arrangements for using such tool.

ESMA is mandated to develop regulatory technical standards (RTS) to specify the characteristics of the LMTs as well as guidelines on the selection and calibration of LMTs by AIFMs.

**Highlights:**

AIFMD II (Directive 2024/927) introduces changes in loan origination, depositary regime, delegation, liquidity management, and disclosure requirements for AIFMs.

▶ Loan-originating AIFs face new restrictions, including risk retention, lending limits (300% leverage for closed-end, 175% for open-end) and mandatory liquidity risk tools for open-ended funds.

Depositary rules allow depositaries in a different Member State (under strict conditions), clarify CSDs' role and ensure better access to information for custodians.

Stricter governance and reporting requirements for AIFMs, including new investor disclosures, harmonised reporting, and expanded liquidity management tools (LMTs).

## 8.2 Democratisation

In recent years, the Luxembourg fund industry witnessed a "democratisation" trend through the opening of investment funds with alternative strategies to retail-type investors, thus unlocking a vast pool of capital for asset managers and breaking down barriers for certain asset classes for retail investors.

The Luxembourg fund toolbox offers certain options for this type of projects, including but not limited to:

- ▶ the "Part II UCI", very open in terms of eligible assets and able to reach retail investors but only on a country-by-country basis (i.e., it does not benefit from a retail marketing passport and can only be marketed to retail investors under the relevant national private placement regimes (NPPRs)), and the
- ▶ "ELTIF"<sup>12</sup>, invented to channel capital into long term investments in the real economy such as infrastructure projects, offering an EU label and, most importantly, a passport for cross-border distribution to retail investors see (See Annex 2).

<sup>12</sup> "ELTIF" refers to a "European Long-Term Investment Fund", an investment structure that may provide retail investors within the EU access to private capital in the interest of a smart and sustainable economy.

### ELTIF – Simplified Access to European Retail Investors:

The European Long-Term Investment Fund (ELTIF) structure offers a streamlined route for non-EU fund managers seeking to distribute their funds to European retail investors. By setting up your fund in Luxembourg, you gain access to a powerful EU marketing passport, enabling efficient distribution across EU member states. ELTIFs are designed to offer flexibility notably with closed-ended or semi-open-ended structures and a hybrid nature, combining elements of both AIF and UCITS frameworks. Luxembourg provides the ideal environment, being the 1st domicile for ELTIFs in the EU, with robust legal and regulatory frameworks, allowing your fund to tap into the growing retail investment market in Europe.



*As a leading global democratiser of private markets with a European base, there has never even been any alternative to structuring our funds in Luxembourg, due to the Luxembourg toolbox, favourable regimes and relatively business friendly regulator. We are very content with what Luxembourg has to offer and will continue using Luxembourg as our base for global distribution.*

**Moonfare**

**Jonas Mullo, Head of Fund Legal**



*In 2024, Investindustrial structured a Luxembourg ELTIF for Investindustrial VIII in collaboration with a distributor partner, permitting Investindustrial to offer its flagship fund to retail investors for the first time in the firm's history. This milestone underscores the advantages of Luxembourg's robust fund ecosystem in unlocking new investor segments and expanding market reach. As one of the leading jurisdictions for European Long-Term Investment Funds (ELTIFs), Luxembourg stands out for its strong financial infrastructure, investor-friendly regulations, and deep expertise in alternative investments—helping to make private equity more accessible to retail investors.*

**Investindustrial**

**Eckart Vogler, Managing Director**



## 8.3 Private debt

Over the past years, the private debt market, globally and in Luxembourg, has been going through a period of unprecedented growth. Main drivers remain macroeconomic factors such as the continuous low interest rate environment, Private Debt allowing a higher exposure to alternatives than Private Equity for certain institutional investors and funds offering an alternative to bank lending. With regards to the latter point, there is an inherent interconnection between private debt and private equity, and this trend is expected to grow over the coming years.

Luxembourg offers the right fund structures with few restrictions for Private Debt funds, compared to other jurisdictions. Luxembourg has thus witnessed an influx of funds into Private Debt structures for several years already. Private debt was already covered in the 2019 edition of this publication. Comparing 2019 and 2024 figures, assets went up from EUR 65 to 510 bn, so almost 8 times more than in 2019. While in 2019 75% of these assets were invested in regulated or semi-regulated funds like in particular the SIF, in 2024 only 37% went into this category while 63%

was invested via the unregulated SCSp, so leading to a shift towards the unregulated market. While in 2019 open- and closed-ended funds almost balanced out, in 2024 <sup>3</sup>/<sub>4</sub> of all private debt funds were closed-ended, confirming a trend where Luxembourg funds are currently used mainly for institutional investors. Hence the number of institutional investors has increased from 65% in 2019 to 80% in 2024 while HNWI and private banks reduced their exposure to private debt.

Hand in hand with this trend towards higher numbers of institutional investors comes the trend towards higher number of accounting under Fair

Value (FV) and reporting, IFRS and consolidations. With regards to the structuring there is a clear trend towards funds with a maturity between 9 and 15 years at the detriment of evergreen funds while the number of funds with a maturity of up to 8 years has remained fairly stable. The decreasing number of evergreen funds support the trend towards an institutionalisation of the Private Debt investor base.

For more detailed numbers please see table 5 in the appendix of this publication. All numbers of this subsection are based on the KPMG-ALFI 2024 Private Debt survey.

## 8.4 European labels available for Luxembourg PE funds

At European level, the will to strengthen and complete the European Single Market for financial services and the European Capital Markets Union is beneficial for the development of Luxembourg's PE/VC sector. Most Luxembourg private equity funds are marketed to investors in a certain number of other EU Member States, thanks to a marketing passport allowing their managers to reach out to other EU investors. A Luxembourg Private Equity fund qualifying as an AIF, an EuVECA or an ELTIF fund will see, under certain conditions, its cross-border distribution facilitated within the EEA. The legal regime applicable to ELTIFs has recently been reviewed to become more attractive and less burdensome. The regulation amending the ELTIF regulation ("ELTIF 2.0") entered into force on 9 April 2023 and has been applicable since 10 January 2024.

In terms of cross-border distribution, the primary advantage of the ELTIF is its cross-border distribution passport. In terms of distribution to retail investors, the new ELTIF regime requires the distributor and/or manager to perform an assessment of suitability under MiFID<sup>13</sup> which is considered a significant relief in terms of wealth management distribution. However, certain safeguards with respect to distribution to retail investors remain applicable, such as the requirement to include clear disclaimers in the fund documents, the production of a PRIIP KID (Key Investor Document) for "packaged retail and insurance-based investment products" as well as sophisticated liquidity management tools.

The marketing passport represents the ultimate benefit of the AIFMD, a concept Luxembourg is not only familiar with but also for which the country is recognised worldwide.

## 8.5 Strong M&A Ecosystem for PE/VC Funds

Luxembourg's well-established M&A ecosystem is a key advantage for PE/VC funds looking to execute transactions within the EU. The country is home to a large number of international corporate players, law firms, advisors, and financial institutions, all of which contribute to a dynamic deal making and

M&A environment. Luxembourg's stable legal system and pro-business environment further enhance its attractiveness as a hub for cross-border deals, enabling smooth, tax-efficient structuring for M&A activities.

<sup>12</sup> "ELTIF" refers to a "European Long-Term Investment Fund", an investment structure that may provide retail investors within the EU access to private capital in the interest of a smart and sustainable economy.

## 9. Annexes

### ANNEX 1 – Fund features (I)

Name	SIF	SICAR
<b>Legal regime</b>	A SIF is governed by the Law of 13 February 2007, as amended (“SIF Law”).	A SICAR is governed by the Law of 15 June 2004 , as amended (“SICAR Law”).
<b>Eligible investors</b>	<p>A SIF or a SICAR may be subject to the AIFM Law and access to the AIFMD marketing passport depends on its AIF qualification and appointment of an authorised AIFM. See below for more detail on the AIFMD framework</p> <p>Investment into a SIF or a SICAR is limited to well-informed investors, i.e.</p> <ul style="list-style-type: none"> <li>(i) institutional investors;</li> <li>(ii) professional investors; or</li> <li>(iii) any other investor who: a) has confirmed in writing that he adheres to the status of well-informed investor, and b) either (i) invests a minimum of EUR 100,000,- or (ii) benefits from an assessment made by a credit institution, an investment firm or a management company certifying his expertise, his experience and his knowledge to adequately appraise the contemplated investment in the SIF or the SICAR.</li> </ul> <p>Within this last category, sophisticated retail or private investors are authorised to invest in SIFs and SICARs.</p> <p>The conditions above are not applicable to the directors and other persons who intervene/take part in the management of the SIFs or SICARs.</p>	
<b>Eligible assets</b>	A SIF may invest in any type of assets and pursue any type of investment strategy.	A SICAR must invest in risk capital <sup>14</sup> only.
<b>Diversification rules</b>	A SIF must invest according to the principle of risk-spreading. In a nutshell, a SIF may in principle not be exposed to one single "risk" for more than 30% of its assets or subscription commitments. <sup>15</sup>	A SICAR is not required to invest according to the risk diversification principle.

<sup>14</sup> According to the Circular CSSF 06/241 risk capital under the SICAR law is characterised by the concurrent gathering of NEW EU COMMISSION AGENDA two elements, namely a high risk and an intention to develop the target entities.

<sup>15</sup> The SIF may benefit from a grace period depending on its asset class to permit the construction of its diversified portfolio

Name	SIF	SICAR
<b>Legal forms</b>	A SIF may be structured in contractual form as a common fund ("FCP") or in corporate form as an investment company (with variable capital "SICAV" or fixed capital "SICAF"). See below for more details on the legal forms.	A SICAR may only be set up as an investment company, not as an FCP.
<b>CSSF approval procedure and ongoing supervision</b>	<p>The CSSF has to approve the prospectus and the constitutive documents, the choice of the directors/managers, the management company, the central administration, the depositary and the auditor in order for a SIF or a SICAR to be formed. See below for more details on CSSF approval process.</p> <p>During the life of the SIF or the SICAR, any substantial change to the prospectus or constitutive documents and any change of director/manager or of the aforementioned service providers require CSSF prior approval.</p>	
<b>Required service providers</b>	<p>A SIF and a SICAR must appoint :</p> <p>An authorised AIFM: if a SIF or a SICAR qualifies as an AIF and if the assets under management of its manager exceed the AIFMD thresholds<sup>16</sup> and/or if it wishes to benefit from the AIFMD marketing passport, the management of the AIF must be entrusted to an authorised AIFM based in Luxembourg or another EU/EEA Member State.</p> <p>A depositary: the custody of the assets of a SIF or a SICAR must be entrusted to a depositary which must be a Luxembourg-based credit institution or an investment firm meeting certain conditions.</p> <p>An auditor: the annual accounts of a SIF or a SICAR must be audited by a Luxembourg independent auditor.</p>	
<b>Practical use</b>	A SIF may invest in all type of assets which offers great flexibility in terms of structuring and investment rules and benefits from an attractive tax regime.	A SICAR offers a tailor-made framework for venture capital and private equity investments. It allows direct or indirect contributions of one or more assets to be made to entities in view of their launch, development or listing on a stock exchange and benefiting from an attractive tax regime.

<sup>16</sup> AIFMD thresholds, AIFMD does not apply to AIFMs whose assets under management (including assets acquired through the use of leverage) do not exceed: (i) €100m (leveraged); or (ii) €500m (unleveraged), provided that the portfolio(s) under management were not leveraged and that investors had no redemption rights exercisable for a period of five years following the date of the initial investment in each AIF.

## ANNEX 1 – Fund features (II)

Name	RAIF	Limited Partnerships (société en commandite simple (SCS) and société en commandite spéciale (SCSp))
<b>Legal regime</b>	<p>A RAIF is governed by the Law of 23 July 2016, as amended (“RAIF Law”).</p> <p>Under the RAIF Law a RAIF can either adopt for a “SIF-like” regime (default option) or a “SICAR-like” regime (exception). This choice impact notably the rules on asset eligibility, diversification and taxation.</p> <p>A RAIF must be an AIF managed by an authorised AIFM and thus is subject to the full AIFM Law requirements.</p>	<p>A Limited Partnership is not subject to any particular product law but is governed by a limited partnership agreement (LPA) the drafting of which, except for a few limited compulsory provisions under the Law of 10 August 1915, as amended (“Company law”), is driven by contractual freedom and is thus highly flexible.</p> <p>A Limited Partnership may be subject to the AIFM Law and access to the AIFMD marketing passport depending on its AIF qualification and the appointment of an authorised AIFM. See below for more detail on the AIFMD framework</p>
<b>Eligible investors</b>	Investment into a RAIF is limited to well-informed investors (as for SIFs and SICARs, please see above for details).	Investment into a Limited Partnership is not restricted to any type of investors.
<b>Eligible assets</b>	A RAIF may invest in any type of assets and pursue any type of investment strategy, provided that if the RAIF wishes to benefit from the same tax regime as the one applicable to a SICAR, it will have to restrict itself to investment in risk capital.	A Limited Partnership may invest in any type of assets and pursue any type of investment strategy.
<b>Diversification rules</b>	A RAIF must comply with the same diversification requirements as those applicable to SIFs, except for RAIFs investing solely in risk capital which do not need to spread the investment risk (“SICAR-like” regime).	A Limited Partnership is not required to invest according to a risk diversification principle.

Name	RAIF	Limited Partnerships (société en commandite simple (SCS) and société en commandite spéciale (SCSp))
<b>Legal forms</b>	A RAIF may be structured in contractual form as a FCP or in corporate form as a SICAV or a SICAF. See below for more details on the legal forms.	Limited Partnership covered in this table are established either as SCS or SCSp.
<b>CSSF supervision and approval process</b>	The RAIF is not subject to the approval nor the ongoing supervision of the CSSF but has to submit certain reports to the AED relating to AML.	A Limited Partnership is not subject to the approval nor the ongoing supervision of the CSSF.
<b>Required service providers</b>	<p>A RAIF must appoint a Luxembourg depository and a Luxembourg auditor.</p> <p>A RAIF must necessarily appoint an authorised AIFM either based in Luxembourg or another EU/EEA Member State.</p>	A Limited Partnership must only appoint an authorised AIFM if it qualifies as an AIF and if the assets under management of its manager exceeds the AIFMD thresholds and/or if it wishes to benefit from the AIFMD marketing passport. If so, the management of the AIF must be entrusted to an authorised AIFM based in Luxembourg or another EU/EEA Member State.
<b>Practical use</b>	To a large extent, the RAIF vehicle offers the same structuring flexibilities and tax features as SIFs or SICARs with the important exception that the RAIF is not subject either to authorisation or supervision by the CSSF as a product but requiring the appointment of an AIFM, itself a regulated entity, thus benefiting from the AIFMD marketing passport as well as from the protection of the AIFMD framework.	The Limited Partnerships are used for their flexibility, the competitive tax environment and the contractual freedom in their structuring and operational rules (similarly to the well-known Anglo-Saxon model of limited partnerships). <sup>17</sup>

<sup>17</sup> It should be noted that the unregulated SCS and SCSp can be converted into a regulated SIF or SICAR at any time, offering the advantages of starting off with an unregulated fund. Limited Partnerships can also be directly used to set up investment vehicles under product laws such as the SIF Law, the SICAR Law or the RAIF Law. As such, all flexibilities offered by these legal forms are also available for a Limited Partnership qualifying as a SIF, SICAR or RAIF (as long as those product laws do not specifically derogate therefrom).

## ANNEX 1 – Fund features (III)

RAIF (indirectly supervised via its AIFM)	SIF (CSSF regulated)	SICAR (CSSF regulated)	Unregulated vehicle
<p>Tax Treatment Transparent:</p> <ul style="list-style-type: none"> <li>▶ Common fund (FCP-RAIF)</li> <li>▶ Common limited partnership (SCS)</li> <li>▶ Special limited partnership (SCSp)</li> </ul>	<p>Tax Treatment Transparent:</p> <ul style="list-style-type: none"> <li>▶ Common fund (FCP-RAIF)</li> <li>▶ Common limited partnership (SCS)</li> <li>▶ Special limited partnership (SCSp)</li> </ul>	<p>Tax Treatment Transparent:</p> <ul style="list-style-type: none"> <li>▶ Common limited partnership (SCS)</li> <li>▶ Special limited partnership (SCSp)</li> </ul>	<p>Tax Treatment Transparent:</p> <ul style="list-style-type: none"> <li>▶ Common limited partnership (SCS)</li> <li>▶ Special limited partnership (SCSp)</li> </ul>
Not transparent (taxable vehicle in Luxembourg).	Not transparent (all vehicles in principle taxable in Luxembourg).	Not transparent (taxable vehicle in Luxembourg).	Not transparent (taxable vehicle in Luxembourg).
All corporate vehicles (see above).	All corporate forms (see above).	All corporate vehicles (see above).	All corporate vehicles (see above).
All these corporate vehicles are otherwise fully taxable in Luxembourg (unless they opt for the special tax status outlined in the next box below similar to the SIF and SICAR regimes only available to RAIFs)		All these corporate vehicles are otherwise fully taxable in Luxembourg	All these corporate vehicles are otherwise fully taxable in Luxembourg
SIF regime for RAIF respecting the principle of risk spreading (mutatis mutandis CSSF Circular 07/309)	SIF regime i.e. vehicles respecting the principle of risk spreading (CSSF Circular 07/309)		
Annual subscription tax (taxe d'abonnement) at a rate of 0.01%. Some RAIFs are exempted from the subscription tax. RAIFs are not subject to any Luxembourg taxes on capital gains or income.	Annual subscription tax (taxe d'abonnement) at a rate of 0.01%. Some SIFs are exempted from the subscription tax.		

RAIF (indirectly supervised via its AIFM)	SIF (CSSF regulated)	SICAR (CSSF regulated)	Unregulated vehicle
The vehicle should in principle benefit from certain doubletax treaties	The corporate vehicles may in principle benefit from certain double tax treaties.		Corporate vehicles are often used in combination with SCS and SCSp to benefit from certain DTTs on the level of the taxable vehicle.
<b>Duration:</b> Unlimited or limited period of time			
<b>Form of participation:</b> (Registered) shares or units (FCP-FIS/SIF or FCP-RAIF): ordinary, preference, beneficiary (the latter not for SIFs) Partnership interests or capital accounts (for SCS and SCSp)			
<b>Redeemable:</b> Voting and non-voting (only voting for SIF) bonds and/or notes			
<b>Listing:</b> In principle possible			
<b>Redemption:</b> In principle possible			
<b>Capital calls/Distributions:</b> Capital calls and distributions to investors are subject to the rules provided in the constitutive documents			
<b>Flexibility on issue price:</b> Preferential rights may be limited or cancelled			
Permissible asset classes: Any kind of asset class	Permissible asset classes: Asset classes as set out in SIF Law (as amended by RAIF Law)	Restricted asset classes: Investment in risk capital (according to definition of “risk capital” in CSSF Circular 06/241)	Permissible asset classes: Any kind of asset class
Risk spreading Risk diversification requirement (mutatis mutandis CSSF Circular 07/309)  If Sicar investment policy, no need for risk diversification	Risk spreading: Risk diversification requirement (as contained in CSSF Circular 07/309).	No risk diversification requirement	No risk diversification requirement

<sup>18</sup> issuance of registered shares of any vehicle recommended in order to ensure proper monitoring of eligible investors (i.e. professional investors to the extent vehicle qualifies as an AIF

RAIF (indirectly supervised via its AIFM)	SIF (CSSF regulated)	SICAR (CSSF regulated)	Unregulated vehicle
Compartment /Sub-funds: Possible	Compartment /Sub-funds: Possible		Compartment /Sub-funds: Possible
<b>Capital:</b>	<b>Capital:</b>	<b>Capital:</b>	<b>Capital:</b>
Fixed or variable	Fixed or variable	Fixed or variable	Fixed or variable
EUR or foreign currency equivalent	EUR or foreign currency equivalent.	EUR or foreign currency equivalent.	EUR or foreign currency equivalent.
Minimum of EUR 1,250,000 (including share premium) to be reached within 12 months of formation as RAIF	Minimum of EUR 1,250,000 (including share premium), to be reached within 12 months of authorisation provided at incorporation.	Minimum of EUR 1,000,000 (including share premium) to be reached within 12 months of authorisation, provided at incorporation.	Minimum of EUR 12,000 for S.à r.l. and EUR 30,000 for SA/SCA at incorporation only.
Minimum of EUR 12,000 for S.à r.l. and EUR 30,000 for SA/SCA.	Minimum of EUR 12,000 for S.à r.l. and EUR 30,000 for SA/SCA	Minimum of EUR 12,000 for S.à r.l. and EUR 30,000 for SA/SCA.	Shares must be paid up to 25% for SA/SCA and 100% for a S.à r.l.
Partly paid shares must be paid up to at least 5%. No restriction for SCS/SCSp Contribution in kind and/or in cash permissible.	Partly paid shares must be paid up to at least 5%. No such restriction for SCS/SCSp.	Shares must be paid up to at least 5%. No such restriction for SCS or SCSp.	No such restriction for SCS or SCSp.
	Contribution in kind and/ or in cash permissible.	Contribution in kind and/ or in cash permissible.	Contribution in kind and/or in cash permissible.
Commitment or subscription based	Commitment or subscription based model.	Commitment or subscription based model.	Commitment or subscription based model.
Management bodies: Board of directors, manager(s) or managing GP -depending on corporate form	Management bodies: Board of directors, manager(s) or managing general partner – depending on corporate form Approval of board members by the CSSF		Management bodies: Board of directors, manager(s) or managing GP -depending on corporate form.
No approval requirements for board members by the CSSF.			No approval requirements for board members by the CSSF.

RAIF (indirectly supervised via its AIFM)	SIF (CSSF regulated)	SICAR (CSSF regulated)	Unregulated vehicle
<p>Supervisory reporting: Annual audited report due six months after year end.</p> <p>AIFM supervised by responsible authority to report on RAIFs it externally manages.</p>	<p>Supervisory reporting: Monthly reporting.</p> <p>Annual audited report due six months after year end.</p>	<p>Supervisory reporting: Semi-annual reporting.</p> <p>Annual audited report due six months after year end.</p>	<p>Supervisory reporting:</p> <p>Not applicable (as long as no AIF or AIFM nomination). Otherwise reporting rules of AIFM Law apply.</p>
<p>Filing requirements with trade register:</p> <p>Within seven months after year end, annual accounts have to be filed.</p> <p>RAIF List: RAIF will have to be registered on RAIF list kept by RCS</p> <p>Depositary:</p> <p>Luxembourg depositary required for RAIF</p>	<p>Filing requirements with trade register:</p> <p>Within seven months after year end, audited annual accounts and appendix have to be filed.</p> <p>Depositary:</p> <p>Luxembourg depositary required (regardless of AIF qualification)</p>	<p>Filing requirements with trade register:</p> <p>Within seven months after year end, audited annual accounts have to be filed.</p> <p>Depositary:</p> <p>Luxembourg depositary required (regardless of AIF qualification)</p>	<p>Filing requirements with trade register:</p> <p>Within seven months after year end, annual accounts have to be filed.</p> <p>Depositary:</p> <p>Not required unless the relevant entity qualifies as an AIF, which is not a de minimis AIF.</p>
<p><b>Administrator:</b> Administrator to be appointed unled own infrastructure</p>			
<p><b>Auditor:</b> Independent approved Luxembourg auditor required</p>		<p><b>Auditor:</b> Luxembourg auditor in certain circumstances only (see section 5.1 of this brochure for further details)</p>	

## ANNEX 2 – Product classification

Label	AIF	EuVECA	ELTIF
<b>Legislation</b>	<p>The Directive (2011/61/EU) of 8 June 2011 on alternative investment fund managers, as amended (“AIFMD”).</p> <p>The AIFMD was recently amended by Directive (EU) 2024/927 (“AIFMD II”)<sup>19</sup>.</p>	<p>The Regulation ((EU) No 345/2013) of 17 April 2013 on European venture capital funds, as amended (“EuVECA Regulation”).</p>	<p>The EU Regulation ((EU) 2015/760) of 29 April 2015 on European long-term investment funds, as amended (“ELTIFs Regulation”).</p> <p>The ELTIF Regulation was recently amended by EU Regulation (2023/760) of 15 March 2023 (“ELTIF 2.0”)<sup>20</sup>.</p>
<b>What is it?</b>	<p>The AIFMD creates a regulatory and supervisory framework for the <b>management and marketing</b> of private equity, venture capital and other AIFs<sup>21</sup> in the EEA.</p>	<p>The EuVECA Regulation creates a voluntary legislative framework and label tailored for the <b>management and marketing of venture capital EU AIFs</b> in the EEA. It aims to simplify the access for SMEs to an alternative source of finance.</p>	<p>The ELTIFs Regulation created an optional legislative framework for the <b>marketing of long-term EU AIF</b> that are investing for long periods of time in the real economy within the EU (such as equity or debt instruments issued by SMEs).</p>
<b>Who is concerned?</b>	<p>AIFMD affects (i) directly the AIFMs and (ii) indirectly the AIFs themselves; primarily based in the EEA and, in specific circumstances, managers and investment entities established outside the EU if marketing their AIFs in the EEA.</p>	<p>EuVECA label is eligible for any AIF (i) qualifying as venture capital fund, i.e. a UCI that intends to invest at least 70% of its aggregate capital contributions and uncalled committed capital in assets that are qualified investments under EuVECA Regulation and (ii) which is managed by an AIFM.</p>	<p>ELTIF label is eligible for (i) EU AIF investing 55%<sup>22</sup> of its portfolio in long-term investment and (ii) which is managed by an authorised EU AIFM.</p>

<sup>19</sup> The Directive (EU) 2024/927 of 13 March 2024 amends AIFMD and the UCITS Directive. Its provisions will generally become applicable by 16 April 2026, Member State will need to have transposed it in national legislation by that time.

<sup>20</sup> Regulation (EU) 2023/606 of the European Parliament and of the Council of 15 March 2023 amending Regulation (EU) 2015/760 as regards the requirements pertaining to the investment policies and operating conditions of European long-term investment funds and the scope of eligible investment assets, the portfolio composition and diversification requirements and the borrowing of cash and other fund rules. ELTIFs that are already authorised under the current ELTIFs Regulation have until 11 January 2029 to comply with ELTIF 2.0.

<sup>21</sup> According to article 1 (39) of the AIFM law, an AIF is any collective investment undertaking, including investment compartments thereof, which: (a) raise capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (b) do not require authorisation pursuant to Article 5 of Directive 2009/65/EC;

<sup>22</sup> Under the ELTIF 2.0, the ELTIF must invest at least 55% (replacing the de minimis 70% threshold under ELTIFs Regulation) of its capital in eligible investment assets, which allows more flexibility to hold liquid assets (up to 45%), subject to further clarifications to be outlined in the Regulatory Technical Standards (RTS) to be published by ESMA.

Label	AIF	EuVECA	ELTIF
<b>What is the content?</b>	AIFMD lays down the rules regarding the authorisation, ongoing operation, marketing and transparency of the AIFM which manage and/or market AIFs in the EEA.	The EuVECA Regulation introduces a complementary set of rules regarding registration, ongoing operation, marketing and transparency of EuVECA managers which manage and/or market EuVECA AIF in the EEA.	ELTIF Regulation introduces a complementary set of rules regarding the authorisation, ongoing operation, marketing and transparency of the authorised AIFM which manage and/or market ELTIF in the EEA.
<b>What is the main benefit?</b>	The authorised AIFMs <sup>23</sup> benefit from a passport permitting them to market the shares or units of the AIFs they manage to <b>professional investors</b> <sup>24</sup> throughout the EEA without additional authorisation or registration requirements (the “AIFMD marketing passport”), replacing the fragmented national private placement regimes (“NPPRs”) still in place for non-EU AIFMs or non-EU AIFs within the EU.	The EuVECA label offers to EuVECA managers a passport to market the shares or units of the EuVECA funds they manage to <b>qualified investors</b> <sup>25</sup> throughout the EEA without additional authorisation or registration requirements (the “EuVECA marketing passport”).	The ELTIF label offers a unique distribution regime allowing authorised AIFM to market their ELTIF to both <b>professional and non-professional investors</b> using their AIFMD marketing passport.
<b>Practical use</b>	While the AIFMD can be seen as a source of constraints, as it has increased costs for managers, the AIFMD marketing passport is equally seen as an opportunity that is making AIFs and private equity a more widely accessible and attractive asset class.	Acquiring the EuVECA marketing passport makes it easier for registered AIFM to raise funds across the EU and seems less burdensome than the need for small AIFs to opt- in to comply with the entire AIFMD in order to access to the AIFMD marketing passport.	The optional ELTIF regime can be considered as some kind of hybrid between the institutional AIF product and the retail UCITS and PRIIP products and allows for corresponding protections for investors.

<sup>23</sup> AIFMs falling above the de minimis thresholds of assets under management (of either (i) EUR 100 million (leveraged) or (ii) EUR 500 million (non-leveraged) are subject to an authorisation regime, have to comply with all AIFMD requirements and thus benefit from the AIFMD marketing passport (the “authorised AIFMs”). On the contrary, small and middle-sized AIFMs falling under the de minimis thresholds are subject to a simplified AIFM registration regime, do not have to comply with the full requirements of AIFMD and do not benefit from the AIFMD marketing passport (the “registered AIFMs”).

<sup>24</sup> Professional investor: an investor which is considered to be a professional client or may, on request, be treated as a professional client within the meaning of Annex II to Directive 2004/39/EC (now Directive 2014/65/EU, MiFID II).

<sup>25</sup> Qualified investor: (i) an investor which is considered to be a professional client or may, on request, be treated as a professional client within the meaning of Annex II to Directive 2004/39/EC (now Directive 2014/65/EU, MiFID II); or (ii) an investor who commit to invest at least € 100,000 and state in writing that they are aware of risks associated with the investment.

## ANNEX 3– Legal forms (I)

Form	Contractual type	Corporate form
<b>Description</b>	A common fund (fonds commun de placement or “FCP”) is not a legal entity, but an undivided co-ownership of assets in which investors subscribe for units (which represent a portion of the net assets of the fund) and are only liable up to the amount contributed by them. The FCP is managed by a management company (société de gestion).	An investment fund in the corporate form must always be a company (société). The relevant product laws offer the possibility to structure the company either as an investment company with variable capital (SICAV) or as an investment company with fixed capital (SICAF).
<b>Legal regime</b>	The FCP is not subject to Luxembourg company law, which makes such a vehicle rather flexible.	Unless otherwise provided for by the relevant product laws, investment companies are governed by the Company Law.
<b>Management</b>	The FCP has no legal personality and must be externally managed by an authorised management company which takes, on behalf of the investors, all decisions relating to the investments and the operations of the fund.	With the exception of the SCSp, most investment companies have a legal personality which may permit to be internally self-managed by its governing body, subject to any restrictions imposed by the relevant product law. Alternatively, investment companies may be externally managed and choose to appoint an authorised external manager.
<b>Governance and Control</b>	The FCP is controlled by the board of directors of the management company.	The Investment company, depending on its legal form, is governed and controlled either by its board of directors / managers or by the board of the general partner.
<b>Legal form</b>	N/A	An investment company may take any corporate form under the Company Law, subject to the product law when applicable. See Annexe 3 (II) for more details on the main features of the corporate forms.
<b>Tax status</b>	A FCP is deemed in most cases to be <b>tax transparent</b> .	An investment company is deemed in most cases to be not tax transparent, except if established as an SCS or SCSp.

## ANNEX 3 – Legal forms (II)

Main corporate forms of investment companies							
	Public limited company	European company	Private limited liability company	Partnership limited by shares	Special limited partnership	Limited partnership	Cooperative company organised as a public limited company
<b>French Name</b>	Société Anonyme	Société Européenne	Société à Responsabilité Limitée	Société en Commandite par Actions	Société en Commandite Spéciale	Société en Commandite Simple	Société Coopérative organisée sous forme de Société Anonyme
<b>Common Abbreviation</b>	S.A.	S.E.	S.à r.l.	S.C.A.	S.C.Sp.	S.C.S.	S.Co S.A.
<b>Possible use by investment companies</b>	<ul style="list-style-type: none"> <li>▶ 2010 Law SICAV or SICAF</li> <li>▶ SIF Law SICAV or SICAF</li> <li>▶ RAIF Law SICAV or SICAF</li> </ul>	<ul style="list-style-type: none"> <li>▶ 2010 Law SICAV or SICAF</li> <li>▶ SIF Law SICAV or SICAF</li> <li>▶ RAIF Law SICAV or SICAF</li> </ul>	<ul style="list-style-type: none"> <li>▶ 2010 Law Part II SICAF or SICAV</li> <li>▶ SIF Law SICAV or SICAF</li> <li>▶ RAIF Law SICAV or SICAF</li> </ul>	<ul style="list-style-type: none"> <li>▶ 2010 Law Part II SICAF or SICAV</li> <li>▶ SIF Law SICAV or SICAF</li> <li>▶ RAIF Law SICAV or SICAF</li> </ul>	<ul style="list-style-type: none"> <li>▶ 2010 Law Part II SICAF or SICAV</li> <li>▶ SIF Law SICAV or SICAF</li> <li>▶ RAIF Law SICAV or SICAF</li> </ul>	<ul style="list-style-type: none"> <li>▶ 2010 Law Part II SICAF or SICAV</li> <li>▶ SIF Law SICAV or SICAF</li> <li>▶ RAIF Law SICAV or SICAF</li> </ul>	<ul style="list-style-type: none"> <li>▶ 2010 Law Part II SICAF or SICAV</li> <li>▶ SIF Law SICAV or SICAF</li> <li>▶ RAIF Law SICAV or SICAF</li> </ul>
<b>Legal entity</b>	Yes	Yes	Yes	Yes	No	No	Yes
<b>Listing possible</b>	Yes	Yes	No	Yes	No	No	No
<b>Minimum subscribed share capital</b>	EUR 30,000	EUR 120,000	EUR 12,000	EUR 30,000	None	None	None
<b>Transferability of shares/ units</b>	Free, subject to restriction in articles of association	Free, subject to restriction in articles of association	Restricted	Free, subject to any restrictions in articles of association	Free, subject to any restrictions in articles of association	Requires unanimous consent of all the partners	Not transferable to third parties
<b>Notarial deed</b>	Yes	Yes	Yes	Yes	No	No	Yes
<b>Minimum number of shareholders, partners or members</b>	1	1	1	2 (1 general partner and 1 limited partner)	2 (1 general partner and 1 limited partner)	2 (1 general partner and 1 limited partner)	7
<b>Maximum number of shareholders, partners or members</b>	Unlimited	Unlimited	100	Unlimited	Unlimited	Unlimited	Unlimited

## Main corporate forms of investment companies

	Public limited company	European company	Private limited liability company	Partnership limited by shares	Special limited partnership	Limited partnership	Cooperative company organised as a public limited company
<b>Minimum number of directors or managers</b>	One tier: 3 directors; Two tier: 2 members of management board, 3 members of supervisory board		3 managers	3 managers or a general partner (whose board is composed of at least 3 members)	3 managers or a general partner (whose board is composed of at least 3 members)	3 managers or a general partner (whose board is composed of at least 3 members)	3 directors
<b>Audit requirements</b>	A UCITS must have its financial statements audited within 4 months of its financial year end. A UCI set up under Part II of the 2010 Law, SIF Law or RAIF Law is required to have its financial statements audited within 6 months of the UCI's year end (4 months if the UCI is admitted to trading on a regulated market).	A UCITS must have its financial statements audited within 4 months of its financial year end. A UCI set up under Part II of the 2010 Law, SIF Law or RAIF Law is required to have its financial statements audited within 6 months of the UCI's year end (4 months if the UCI is admitted to trading on a regulated market).	A UCI set up under Part II of the 2010 Law, SIF Law or RAIF Law is required to have its financial statements audited within 6 months of the UCI's year end (4 months if the UCI is admitted to trading on a regulated market).	A UCI set up under Part II of the 2010 Law, SIF Law or RAIF Law is required to have its financial statements audited within 6 months of the UCI's year end (4 months if the UCI is admitted to trading on a regulated market).	A UCI set up under Part II of the 2010 Law, SIF Law or RAIF Law is required to have its financial statements audited within 6 months of the UCI's year end (4 months if the UCI is admitted to trading on a regulated market).	A UCI set up under Part II of the 2010 Law, SIF Law or RAIF Law is required to have its financial statements audited within 6 months of the UCI's year end (4 months if the UCI is admitted to trading on a regulated market).	A UCI set up under Part II of the 2010 Law, SIF Law or RAIF Law is required to have its financial statements audited within 6 months of the UCI's year end (4 months if the UCI is admitted to trading on a regulated market).

**In practice, an investment company is generally set up as an S.A. or an S.à r.l., or in the case of a partnership, an S.C.Sp., S.C.A. or an S.C.S.**

## ANNEX 4 - Double Tax Treaty Network

List of countries with Double Tax Treaty in force (as of 29 July 2025).

- ▶ Andorra
- ▶ Armenia
- ▶ Austria
- ▶ Azerbaijan
- ▶ Bahrain
- ▶ Barbados
- ▶ Belgium
- ▶ Botswana
- ▶ Brazil
- ▶ Brunei
- ▶ Bulgaria
- ▶ Canada
- ▶ China, People's Republic of
- ▶ Croatia
- ▶ Cyprus
- ▶ Czech Republic
- ▶ Denmark
- ▶ Estonia
- ▶ Ethiopia
- ▶ Finland
- ▶ France
- ▶ Georgia
- ▶ Germany
- ▶ Greece
- ▶ Guernsey
- ▶ Hong Kong
- ▶ Hungary
- ▶ Iceland
- ▶ India
- ▶ Indonesia
- ▶ Ireland, Republic of
- ▶ Isle of Man
- ▶ Israel
- ▶ Italy
- ▶ Japan
- ▶ Jersey
- ▶ Kazakhstan
- ▶ Korea, Republic of
- ▶ Kosovo
- ▶ Laos
- ▶ Latvia
- ▶ Liechtenstein
- ▶ Lithuania
- ▶ Macedonia
- ▶ Malaysia
- ▶ Malta
- ▶ Mauritius
- ▶ Mexico
- ▶ Moldova
- ▶ Monaco
- ▶ Morocco
- ▶ Netherlands
- ▶ Norway
- ▶ Panama
- ▶ Poland
- ▶ Portugal
- ▶ Qatar
- ▶ Romania
- ▶ Russia
- ▶ Rwanda
- ▶ San Marino
- ▶ Saudi Arabia
- ▶ Senegal
- ▶ Serbia
- ▶ Seychelles
- ▶ Singapore
- ▶ Slovak Republic
- ▶ Slovenia
- ▶ South Africa
- ▶ Spain
- ▶ Sri Lanka
- ▶ Sweden
- ▶ Switzerland
- ▶ Taiwan
- ▶ Tajikistan
- ▶ Thailand
- ▶ Trinidad and Tobago
- ▶ Tunisia
- ▶ Turkey
- ▶ Ukraine
- ▶ United Arab Emirates
- ▶ United Kingdom
- ▶ United States of America
- ▶ Uruguay
- ▶ Uzbekistan
- ▶ Vietnam

## ANNEX 5 – Regulatory AML/CFT/FS framework

The Luxembourg AML/CFT/FS framework is based on the following regulations:

- ▶ Directive (EU) 2018/843 of 30 May 2018 of the European Parliament and the Council (5th AML Directive');

Luxembourg regulations:

- ▶ The law of 12 November 2004 on the fight against money laundering and terrorist financing as amended (2004 Law);
- ▶ The law of 27 October 2010, enhancing the anti-money laundering and counter terrorist financing legal framework (2010 Law);
- ▶ The law of 13 January 2019 establishing a register of beneficial owners;
- ▶ The law of 19 December 2020 on the implementation of restrictive measures in financial matters as amended;
- ▶ The Grand-Ducal Regulation of 1 February 2010, providing details on certain provisions of the amended law of 12 November 2004 (GDR 2010);
- ▶ The CSSF Regulation No. 12-02 of 14 December 2012 on the fight against money laundering and terrorist financing (Regulation 12-02), as amended;
- ▶ The CRF Circular 22/10 of 8 November 2010 relating to professionals subject to the law of 12 November 2004 (CRF 22/10);
- ▶ The CSSF Circular 17/650 of 17 February 2017 on the application of the 2004 Law and of the GDR 2010 to the predicate tax offences, as amended and complemented by CSSF Circular 20/744;
- ▶ The CSSF Circular 18/698 on the authorisation and organisation of investment fund managers incorporated under Luxembourg law;
- ▶ The CSSF Circular 19/732 on the identification and verification of the identity of the beneficial owner;
- ▶ The CSSF Circular CSSF 21/782 on the adoption of the amended guidelines issued by the EBA on money laundering and terrorist financing risk factors, as amended by Circular CSSF 23/842;
- ▶ The CSSF Circular 22/822 concerning the FATF statements concerning inter alia high risk jurisdictions and its annexes, as amended from time to time;
- ▶ FATF Guidance for a risk-based approach Securities Sector, October 2018; and
- ▶ Luxembourg Criminal Code, especially in Articles 506-1 to 506-8 related to money laundering offences and in Articles 135-5 and 135-6 on the financing of terrorism.

## 10. Glossary

<b>1915 Law</b>	Law of 10 August 1915 on commercial companies, as amended.
<b>AED</b>	“Administration de l’Enregistrement et des Domaines” , one out of three Luxembourg tax authorities ; mainly responsible for indirect tax matters
<b>AIF</b>	Alternative Investment Fund as defined in the AIFMD Law
<b>AIFMD</b>	Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095
<b>AIFMD Law</b>	The Law of 12 July 2013 implementing Directive 2011/61/EU into Luxembourg law.
<b>Capital Call</b>	Written notice to Limited Partners requesting them to make a capital contribution to the fund vehicle (within the limits of their subscription commitment) in order to permit the fund vehicle to pay for its investments or to pay expenses.
<b>Carried interest</b>	Carried interest or carry is a share of the profits of the fund vehicle that is paid to the general partner and/or the investment manager/adviser in excess of the amount that the general partner/manager/adviser contributes to the fund vehicle. In order to receive carried interest, the fund vehicle must first return all capital contributed by the investors, and, in certain cases, the fund must also return a previously agreed-upon rate of return (the “hurdle rate” or “preferred return”) to investors.
<b>CSSF</b>	“Commission de Surveillance du Secteur Financier”, the Luxembourg supervisory authority of the financial services sector.
<b>ELTIF</b>	European long-term investment fund, governed by Regulation (EU) 2015/760 on European long-term investment funds services sector.
<b>ESMA</b>	European Securities and Markets Authority, the independent EU authority set up to enhance investors’ protection and promote stable and orderly financial markets.
<b>EUVCA</b>	European venture capital fund or manager, governed by Regulation (EU) 345/2013 on European venture capital funds.
<b>FCP</b>	European Securities and Markets Authority, the independent EU authority set up to enhance investors’ protection and promote stable and orderly financial markets.

<b>GP</b>	The general partner of either a corporate partnership limited by shares (SCA), a common limited partnership (SCS) or a special limited partnership (SCSp). The managing general partner is normally jointly and severally liable with the partnership for any liabilities which may not be satisfied out of partnership assets.
<b>IFRS</b>	International Financial Reporting Standards.
<b>LP</b>	The limited partner, typically an investor or limited shareholder in a fund vehicle; limited partners enjoy limited liability (i.e., up to the amount invested or committed for investment).
<b>LPEA</b>	Luxembourg Private Equity and Venture Capital Association
<b>Lux GAAP</b>	“Luxembourg Generally Accepted Accounting Principles”. Most frequently used accounting framework in Luxembourg for PE vehicles.
<b>PSF</b>	“Professionnel du Secteur Financier”; a professional of the financial services sector ; each PSF is subject to prior authorisation by and the ongoing prudential supervision of the CSSF.
<b>RAIF</b>	“Reserved Alternative Investment Fund”; a fund structure with legal and tax features of the well-established SICAR and SIF, without those being subject to direct regulation.
<b>RCS</b>	“Registre de Commerce et des Sociétés” ; the Luxembourg register of commerce and companies.
<b>SA</b>	“Société Anonyme” ; a public limited liability company
<b>SAS</b>	“Société par Actions Simplifiée” ; limited liability company
<b>S.à.r.l</b>	“Société à Responsabilité Limitée” ; a private liability company
<b>SCA</b>	“Société en Commandite par Actions” ; corporate partnership limited by shares.
<b>SCS</b>	“Société en Commandite Simple” ; a common limited partnership
<b>SCSp/SLP</b>	“Société en Commandite Spéciale” ; a special limited partnership without legal personality introduced into Luxembourg law by the AIFMD Law.
<b>SICAR</b>	“Société d’Investissement en Capital à Risque” ; an investment company investing in risk capital only.
<b>SICAV</b>	“Société d’Investissement à Capital Variable” ; an investment company with variable capital.

**SIF** “Specialised Investment Fund” ; a collective investment scheme governed by the law of 13 February 2007 on.

**SNC** Société en Nom Collectif: This structure is formed by two or more partners with unlimited liability and it is ideal for small to medium-sized enterprises where partners would like to be actively involved in management.

**SOPARFI** “Société de Participation Financière” ; a mere marketing acronym used to designate an ordinary commercial company governed by the 1915 Law and which is used as a vehicle for holding participations in Luxembourg or foreign companies or other instruments.

**Subscription Tax** Also: Taxe d’Abonnement ; a tax of one basis point assessed on the net asset value and payable by certain collective investment schemes only.

**UCI** “Undertakings for Collective Investments” ; collective investment schemes governed by the law of 17 December 2010 relating to under-takings for collective investment, as amended.

**UCITS** “Undertaking for Collective Investments in Transferable Securities” ; collective investment schemes organised in accordance with Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS).

**VAT** Value Added Tax

**Well-informed investor** Well-informed investors are:

- ▶ Institutional investors
- ▶ Professional investors
- ▶ Any other investor who declares in writing that he/she/it is an informed investor, and either invests a minimum of EUR 100,000 or benefits from an appraisal from a bank, an investment firm or a management company certifying that he/she/it has the appropriate expertise, experience and knowledge to adequately understand the investment made in the relevant collective investment scheme.

## 11. Useful References

- ▶ **Luxembourg Private Equity & Venture Capital Association - LPEA:** [www.lpea.lu](http://www.lpea.lu)
- ▶ **Invest Europe:** [www.investeurope.eu](http://www.investeurope.eu)
- ▶ **Association of the Luxembourg Fund Industry – ALFI:** [www.alfi.lu](http://www.alfi.lu)
- ▶ **Luxembourg for Finance, the agency for the development of the financial services industry:** [www.lff.lu](http://www.lff.lu)
- ▶ **Regulator of the Luxembourg Financial services industry - CSSF (Commission de Surveillance du Secteur Financier):** [www.cssf.lu](http://www.cssf.lu)
- ▶ **EU Regulator of Securities and Markets – ESMA:** [www.esma.europa.eu](http://www.esma.europa.eu)
- ▶ **List of PSF:** <https://edesk.apps.cssf.lu/search-entities/search?&st=advanced&entType=SPP>
- ▶ **List of registered SICARs:** <https://edesk.apps.cssf.lu/search-entities/search?&st=advanced&entType=SIC>
- ▶ **List of registered SIFs:** <https://edesk.apps.cssf.lu/search-entities/search?&st=advanced&entType=FIS>
- ▶ **List of registered AIFMs:**  
[https://edesk.apps.cssf.lu/search-entities/search?&st=advanced&entType=AIFM\\_AUT](https://edesk.apps.cssf.lu/search-entities/search?&st=advanced&entType=AIFM_AUT)
- ▶ **List of double tax treaties:** <https://impotsdirects.public.lu/fr/conventions/luxembourg.html>
- ▶ **Law of 1915:** <https://legilux.public.lu/eli/etat/leg/loi/1915/08/10/n1/jo>
- ▶ **Law of 12 July 2013 implementing the AIFMD:** <https://www.cssf.lu/en/Document/law-of-12-july-2013-2/>
- ▶ **Law of 28 July 2014 on the immobilisation of bearer shares:**  
[http://cssf.lu/wp-content/uploads/FAQ\\_Law\\_28\\_July\\_2014.pdf](http://cssf.lu/wp-content/uploads/FAQ_Law_28_July_2014.pdf)
- ▶ **EuVECA Regulation No. 345/2013:** <http://eur-lex.europa.eu/eli/reg/2013/345/oj/eng>EuSEF
- ▶ **Regulation No. 346/2013 of 22 July 2013:** <https://eur-lex.europa.eu/eli/reg/2013/346/oj/eng>
- ▶ **Grand-Ducal Decrees of 21December 2017 and 1 March 2019 on CSSF fees:**  
<http://legilux.public.lu/eli/etat/leg/rgd/2019/03/01/a110/jo>  
<http://legilux.public.lu/eli/etat/leg/rgd/2017/12/21/a1121/jo>
- ▶ **Circular CSSF 18/698 of 23 August 2018:** Authorisation and organisation of investment fund managers incorpo- rated under Luxembourg law:  
<https://www.cssf.lu/en/supervision/financial-crime/aml-ctf/circulars/>
- ▶ **ILA website:** <https://www.ila.lu/>
- ▶ **LPEA Members:** <https://lpea.lu/membership/members-list/>
- ▶ LPEA membership as of 20 May 2025 (Total: 634)
- ▶ Private Equity Firms (211)
- ▶ Private Equity Services Providers (187)
- ▶ Affiliate Independent Directors (121)
- ▶ Other Affiliates (115)



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