

Luxembourg Investment Funds

A practical handbook on
fund vehicles in Luxembourg

Contents

Luxembourg: Key hub for investment funds in Europe	2
Key considerations	3
Create the product that meets your expectations	4
AIFMD Key implications	7
How to benefit from AIFMD?	8
What does it mean to be fully subject to AIFMD?	10
Fund structuring opportunities	11
Main fund regimes in Luxembourg	12
Main regulatory implications summary	13
Additional structuring aspects	14
ESG	15
Tax environment	16
Parallel fund structures	17
White & Case Luxembourg	19
What sets us apart	20
Contact us	21
Firm Overview	22
Glossary of terms	22

Luxembourg: Key hub for investment funds in Europe

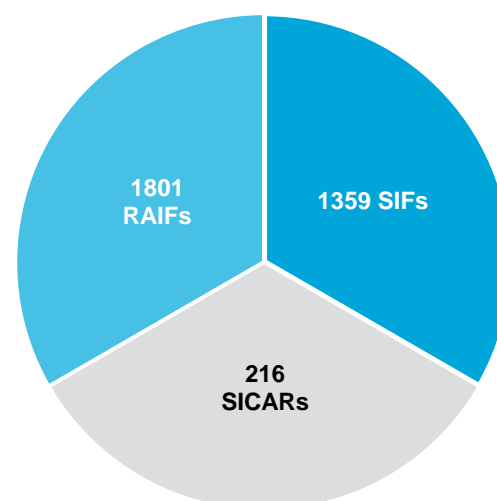
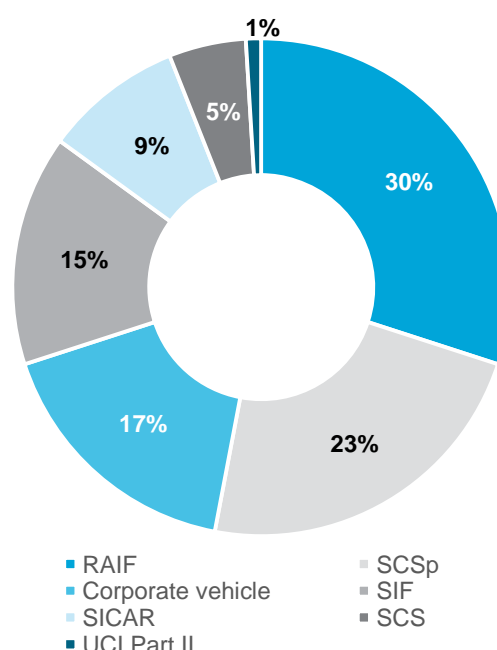
Luxembourg offers both expertise as well as a dynamic, business-friendly, multilingual and flexible environment for establishing investment funds. It is currently the second-largest investment funds centre in the world, after the United States.

The right place – The first investment fund in Luxembourg was established in 1959 and the Luxembourg fund industry currently accounts around 3,500 undertakings for collective investment and other funds vehicles with more than EUR 5,162.555 billion¹ (as of May 2023) of assets under management. The world’s major asset managers have established investment vehicles in Luxembourg and use Luxembourg as a gateway to market their products across Europe and the world.

The largest fund domicile in Europe – The Grand Duchy of Luxembourg is Europe’s largest domicile for UCITS and AIFs with a market share of 26.3 per cent.² in 2022.

The right structures – Since the mid-2010s, Luxembourg has, in particular, become the main centre for setting up private equity, real estate, infrastructure and debt funds in Europe with a broad range of investment vehicles with various legal forms, fund regimes, tax qualifications and regulatory frameworks generating a manager-friendly ecosystem. The large range of available structures ensures that all fund promoters will find the suitable vehicle from a GP, an investor and investment perspective.

Legal form of Alternative Investment Funds in Luxembourg



Source: LPEA (GP Survey 2021), CSSF website and list of RAIFs published by the RCS in 2022

¹ Alfi website [ouverture section statistique chiffres du mois.pdf \(alfi.lu\)](https://www.alfi.lu/ouverture-section-statistique-chiffres-du-mois.pdf)

² ALFI website [ALFI - State of the industry \(Statistics\)](https://www.alfi.lu/ALFI-State-of-the-industry-Statistics)

Key considerations

Luxembourg provides an investment environment driven by innovation and perfectly suited to the evolving demands of investors and fund managers.

A dynamic environment.

The net assets under management in Luxembourg investment funds have increased from EUR 4,064 billion in 2018 to 5,557 billion³ in 2022, which represents a 27% increase over four years.

AIFMD – an opportunity for fund promoters.

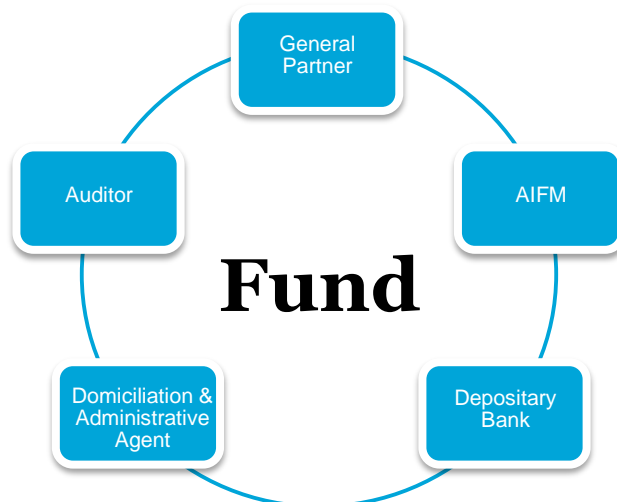
One of the key milestones during the last decade was the implementation of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers (“AIFMD”).

The implementation of AIFMD has offered a flexible environment for fund managers with a key advantage being the AIFMD marketing passport enabling managers to market the alternative investment funds they manage in the entire EEA.

From Luxembourg, investment fund promoters may also register the AIFs they managed for marketing non-EEA countries, such as the United Kingdom or in Switzerland pursuant to local private placement rules.

Luxembourg legal and regulatory framework enables the establishment of a broad range of fund products with features that may be tailor-made to meet the expectations of each sponsor.

A typical fund constellation, including service providers:



³ CSSF/ALFI Statistics as of May 2022.

Create the product that meets your expectations

The Luxembourg “toolbox” provides a broad array of options in respect of fund regimes and legal forms. Luxembourg fund vehicles may notably be:

- regulated or non-regulated;
- established as corporations, partnerships or as contractual type vehicles (*fonds commun de placement*);
- open-ended or close-ended;
- tax transparent or opaque;
- standalone or umbrella with multiple compartments with segregated assets and liabilities;
- structured with flexible terms regarding eligible investments and diversification rules; and
- targeting professional, semi-professional or retail investors in Europe and worldwide.⁴

⁴ Outside the European Union, may be subject to local registration.

The tables below provide a spectrum of the legal, regulatory and structural possibilities offered to managers in the structuring of their alternative investment fund vehicles in Luxembourg.

Legal Forms

	SCSp (special limited partnership)	SCS (limited partnership)	SCA (corporate partnership limited by shares)	SA (public limited liability company)	FCP (mutual fund)
Corporate form	Partnership	Partnership	Corporate partnership (hybrid)	Corporate	Contractual form
Constitution	Private instrument (<i>limited partnership agreement</i>)		Notarial deed		Private Instrument (<i>management regulations</i>)
Publication at trade and companies register	LPA is private An extract of the limited partnership agreement is published		Deed of incorporation published	Deed of incorporation published	Management Regulations published
Governance	GP/LP structure			Board of directors	Management Company
Designation of management body	As per LPA	As per LPA	As per articles of incorporation	By the general meeting of shareholders	The management company

	SCSp	SCS	SCA	SA	FCP
Investors powers	As per LPA, subject to limited matters to be decided by the partners	As per LPA, subject to limited matters to be decided by the partners	The companies law determines the decisions to be taken by the general meeting of shareholders	The companies law determines the decisions to be taken by the general meeting of shareholders	As per the management regulations
Minimum capital at constitution	no	no	EUR 30,000	EUR 30,000	no
Number of investors	At least one GP and one LP	At least one GP and one LP	At least one GP and one LP	At least one shareholder	No requirements
Liability	GP has unlimited liability LP has limited liability			Shareholders have limited liability	Unitholders have limited liability
Filing of annual accounts	No	Yes	Yes		
Audit	Depending on regulatory regime	Depending on regulatory regime	Depending on regulatory regime	Depending on regulatory regime	Yes
Transfers	As per LPA	As per LPA	Free but may be subject to limitations		As per the management regulations
Duration	Limited or unlimited				
Separate legal personality	No	Yes	Yes	Yes	No
Tax status in Luxembourg	Tax transparent ⁵		Opaque – either subject to a 1 bps subscription tax or to CIT and MBT in Luxembourg, depending on the regulatory/tax status elected		Tax transparent
Treaty entitlement	No but partners of an SCSp / intermediate vehicles may be eligible	No but partners of an SCS / intermediate vehicles may be eligible	Yes	Yes	No

⁵ No corporate income tax. SCS and SCSp are, in principle, exempt from municipal business tax in Luxembourg.

AIFMD Key implications

What is AIFMD?

AIFMD is a European framework regulating managers of alternative investment funds (“AIFs”). It provides harmonised rules governing the authorisation and the activities of alternative investment fund managers managing alternative investment funds.

AIFMD defines AIFs as (i) collective investment undertakings, which (ii) raise capital (iii) from a number of investors (iv) with a view to investing it in accordance with a pre-defined investment policy for the benefit of those investors.⁶ All investment funds worldwide (irrespective their jurisdiction) may qualify as AIF under AIFMD.

When does AIFMD apply?

AIFMD is relevant for managers established in the European Union (“EU”)⁷ (whether they manage EU AIF) and also applies to non-EU managers marketing or managing AIFs in the EU. It is also key noting that AIFMD applies at manager level and not at product/fund level.

In addition to providing a more protected and transparent framework for investors, AIFMD offers for fund sponsors extensive marketing opportunities to Professional Investors that may extend to the whole of the European Economic Area.

AIFMs must perform portfolio management and risk management of the AIFs they manage and may also perform marketing and administration, as well as certain other activities related to the assets of the AIF. AIFMs may, subject to certain conditions as set out in AIFMD, delegate the functions they perform, such as the portfolio management and marketing activities.

Exemptions

The following entities are out of scope of AIFMD:

- holding companies;
- institutions for occupational retirement provision;
- supranational institutions (such as the European Central Bank);
- national central banks;
- national, regional and local government bodies or other institutions, which manage funds supporting social security and pension systems;
- employee participation schemes or employee savings schemes; and
- securitisation special purpose vehicles.

How to benefit from AIFMD?

The following options may be used. Note, however, that each option does not provide the same benefits and constraints.

⁶ UCITS funds are not AIFs.

⁷ AIFMD also applies to the European Economic Area (i.e. UE 27 countries + Iceland, Liechtenstein and Norway (“EEA”). For the purpose of this brochure, reference to the EU shall be read as also including all EEA countries.

How to benefit from AIFMD?

Option 1 – Non-EU AIFM: National Private Placement Regime (NPPR)

Non-EU AIFMs cannot fully benefit from AIFMD. In particular, they do not have access to the European marketing passport. However, non-EU AIFMs (whether managing EU- or Non-EU AIFs) may market AIFs in Europe relying on the national private placement regimes, as set out under article 42 of AIFMD (“**NPPR**”).

Under article 42 of AIFMD, each EU Member State **may** (but is not obliged to) allow Non-EU AIFMs to market AIFs to Professional Investors in its territory on the basis of NPPR. In that case, the non-EU AIFM will be required to comply with certain AIFMD rules, including annual report, disclosures to investors, reporting to a regulator and (where applicable) compliance with rules on acquisition of major holding or control of companies. It should be noted that each EU country may impose stricter rules.

In Luxembourg, private placement under article 42 of AIFMD is permitted without any additional local requirement and many sponsors are carrying out marketing activities in Luxembourg on that basis.

Marketing on the basis of NPPR is, however, to be considered on a Member State by Member State basis, to assess (i) whether the relevant Member State allows marketing on that basis and, if so, (ii) it shall be assessed whether additional obligations are imposed by that Member State.

Option 2 – Registered AIFM: lighter regime

EU AIFMs managing AIFs whose assets under management do not exceed:

- **EUR 500 million** in the context of AIFs, which are not leveraged and without redemption rights for a period of five years; or
- **EUR 100 million** in the context of AIFs, including any assets acquired through the use of leverage,

are exempt from full compliance with AIFMD. Such AIFMs may register with their National Competent Authority and become only subject to an ongoing reporting obligation to that authority.

When exceeding the thresholds, AIFMs must apply for an authorisation or an authorised AIFM must be appointed.

A key point to note is that registered AIFMs do not benefit from the European marketing passport. There is no harmonised right to market and some jurisdictions do not authorise marketing on that basis.

Light AIFMs may nevertheless decide to voluntarily comply with the requirements of AIFMD so they get access to the European marketing passport.

Option 3 – Authorised AIFM: full compliance with AIFMD

EU AIFMs that cannot benefit from the lighter regime are subject to full compliance with AIFMD.

Management passport

A Luxembourg AIF may be managed by an authorised AIFM located in another EU Member State that has “passport” its management activities in Luxembourg.

Pre-marketing

What is pre-marketing?

Pre-marketing consists for an AIFM to provide information on investment strategies or investment ideas to potential professional investors in the European Union in order to test their interest in a new fund, which may or may not be established. Pre-marketing shall not amount to an offer or placement of the AIF to the potential investors.

What offers AIFMD with regard to premarketing?

The AIFMD pre-marketing regime enables EU AIFMs to test interest of investors for new products or strategies in the entire EEA via a mechanism of notification sent to European regulators.

Signed [pre-marketing notification letter](#) shall be submitted to the National Competent Authority within two weeks after the AIFM has started pre-marketing an AIF it manages.

Can non-EU AIFMs benefit from pre-marketing for AIFs they manage?

AIFMD leaves flexibility for local regulators to allow non-EU AIFMs to benefit from pre-marketing in their jurisdiction. This is notably permitted by the CSSF in Luxembourg without any additional local requirement.

Marketing passport

Authorised EU AIFMs benefit from the marketing passport that allows marketing of AIFs to Professional Investors⁸ in the EEA. Marketing across the EU is subject to a notification procedure between the National Competent Authority of the EEA Member State in which the AIFM is established and the National Competent Authority in which the AIFM intends to market.

Promoters wishing to manage alternative investment funds in Luxembourg may decide to create their own in-house AIFM. This option is suitable for large sponsors as it requires substance on the ground. Establishing an authorised AIFM is subject to prior authorisation by the relevant National Competent Authority.

Alternatively, sponsors that do not wish to create their own in-house AIFM may use the services of third-party “host” firms fully authorised under AIFMD. This type of AIFMs are generally called “**Third-Party AIFMs**”. Third Party AIFMs typically delegate the portfolio management to fund managers established abroad.⁹

⁸ AIFMD requires that marketing can be made to Professional Investors but some countries authorise AIFMs to target semi-professional investors or similar.

⁹ Subject to compliance with AIFMD rules.

What does it mean to be fully subject to AIFMD?

Full compliance with AIFMD triggers mainly the following:

- Requirement for AIFMs to be authorised by their National Competent Authority;
- Disclosure requirements with, notably, the obligation to provide prospective investors with pre-contractual information;
- Reporting obligations vis-à-vis the National Competent Authority of the AIFM;
- Requirement to draw-up an annual report for each AIF that it manages;
- Requirement to appoint a depositary;
- Requirements of notification of major holding and change of control, as well as compliance with asset stripping rules; or
- Requirements to establish policies and procedures notably in relation to remuneration, conflicts of interest and risk management.

In addition, AIFMD sets additional regimes for certain small or non EU AIFMs. If eligible, compliance with AIFMD will be lighter but AIFMs will not benefit from the European passport. See above an overview of those regime under "*How to benefit from AIFMD*".

Fund structuring opportunities

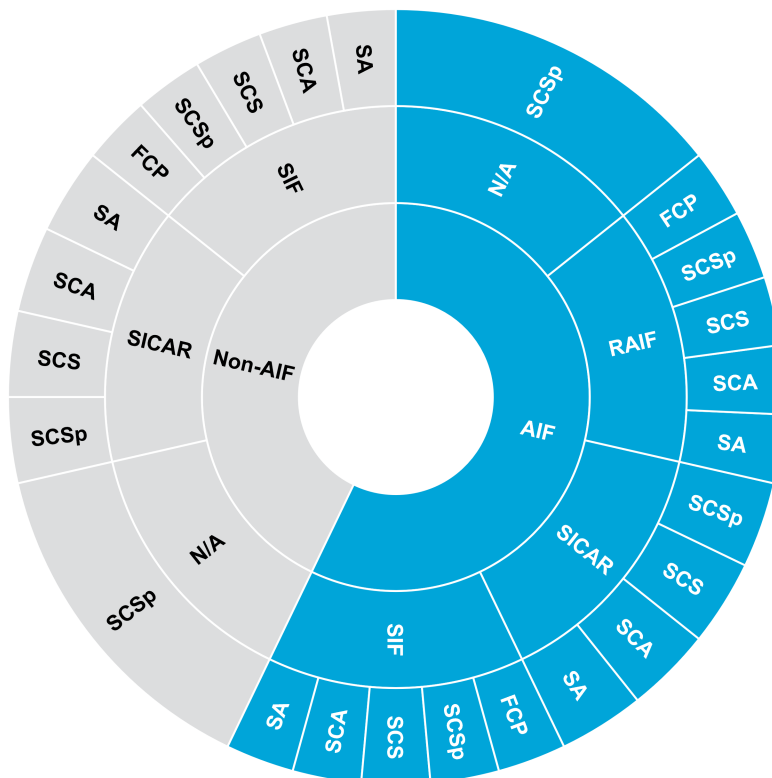
How to structure a Luxembourg fund in line with your expectations?

Luxembourg has developed a significant expertise in terms of alternative products. The Luxembourg toolbox offers bespoke structures for all asset classes and investment strategies.

The choice of the appropriate legal form and fund regime is driven by:

- ▶ the need to have regulated or non-regulated vehicle;
- ▶ the investors to be targeted;
- ▶ tax considerations; and
- ▶ the governance rules and controls by sponsors over the investment fund.

Luxembourg toolbox in a nutshell



Main fund regimes in Luxembourg

SIF

means specialised investment fund

Key features:

- Can be used by all legal forms (corporate, partnerships or contractual vehicle)
- Supervised by the CSSF
- Suitable for all classes of assets
- May qualify as AIF and may benefit from AIFMD
- Reserved to investors qualifying as well-informed investors
- Subject to diversification
- Umbrella with multiple sub-funds possible

SICAR

means investment company in risk capital

Key features:

- In practice used by corporate vehicle
- Supervised by the CSSF
- Must invest in risk capital assets
- May qualify as AIF and may benefit from AIFMD
- Reserved to investors qualifying as well-informed investors
- No diversification
- Attractive tax regime
- Efficient time to market
- Umbrella with multiple sub-funds possible

RAIF

means reserved alternative investment fund

Key features:

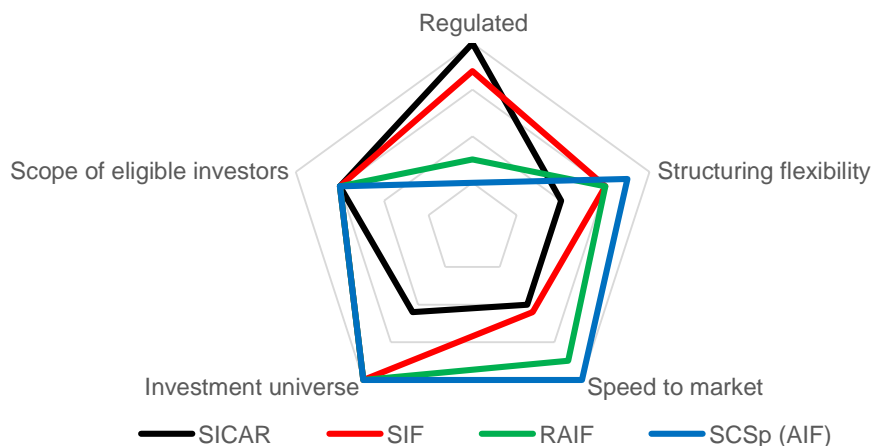
- Not subject to CSSF supervision
- Suitable for all classes of assets
- Always qualify as AIF and may must appoint an EU-authorized AIFM
- Reserved to investors qualifying as well-informed investors
- Subject to diversification
- Efficient time to market
- Umbrella with multiple sub-funds possible

Unregulated

Key features:

- In practice in the form of an SCSp or SCS, which operates similarly to limited partnerships
- Great flexibility and contractual freedom
- Not subject to CSSF supervision
- May qualify as AIF and may benefit from AIFMD
- No pre-defined type of investors
- No diversification
- Efficient time to market
- Tax transparent

Overview of the main fund regimes for Luxembourg alternative investment funds



Main regulatory implications summary

	Unregulated AIF				
	SIF	SICAR	RAIF	Sub-threshold / Registered AIFM	Authorised AIFM
EU marketing passport	Yes, if fully authorised AIFM is appointed	Yes, if fully authorised AIFM is appointed	Yes ¹⁰	No	Yes
Supervision	Yes	Yes	Indirectly by the AIFM	No	Indirectly by the AIFM
Diversification requirement	Yes	No	Yes	No	No
Eligible investors	Well-informed investor	Well-informed investor	Well-informed investor	No	No
Minimum capital requirements	Yes	Yes	Yes	No	No
Taxation	Subscription tax	Taxable entity (if corporate legal form) Not taxable entity (if SCS, SCSp, FCP)	Depending on regulatory regime elected and legal form	Depending on corporate form	Depending on corporate form
Umbrella vehicle	Possible	Possible	Possible	No – except if subject to SIF or SICAR regime	No – except if subject to SIF, SICAR or RAIF regime
Accounting Standards	IFRS / Lux GAAP	IFRS / Lux GAAP	IFRS / Lux GAAP	Depending on corporate form / regulatory status	Depending on corporate form / regulatory status
Corporate form	Corporate or contractual	Corporate or contractual	Corporate or contractual	Corporate or contractual	Corporate or contractual

¹⁰ RAIFs must qualify as AIFs and must be managed by an authorised EU AIFM.

Additional structuring aspects

Fixed capital versus Variable capital

Although a large majority of the Luxembourg investment funds are established with a variable capital, most of the fund regimes available in Luxembourg offer funds promoters the choice to structure their funds with either a fixed or a variable capital.

Stand-alone Funds versus Umbrella Funds

Most of the fund regimes also provide for the possibility to create funds with an umbrella structure, meaning with the possibility to create one or more compartments. The assets and liabilities of each compartment are segregated and the creditor of a compartment would, in principle, not be able to exercise a claim against the assets of another compartment of the same umbrella fund.

Open-ended funds versus close-ended funds

Luxembourg investment funds may either be open-ended or close-ended. Contrary to close-ended funds, open-ended funds are collective investment schemes whose documentation provides for the flexibility to issue and redeem shares at any time or on a regular basis. Private equity or real estate funds are generally structured as close-ended funds due to the illiquid nature of their underlying assets and in light of the long-term commitment from investors that it involves.

Accounting rules

Lux GAAP and IFRS are accounting standards commonly used by Luxembourg investment funds.

SCSps qualifying as AIF may, in addition, apply the following accounting standards:

- Japanese GAAP;
- US GAAP;
- Chinese GAAP;
- Canadian GAAP; and
- South Korean GAAP.

Voting shares / tracking shares

For investment funds being established as corporate structures (SA or SCA), the Luxembourg law of 10 August 1915 on commercial companies grants flexibility to issue voting and non-voting shares.

Funds created as corporate vehicles may also issue tracking shares that will track the performance of particular assets or pool of assets. Holders of tracking shares will therefore be able to receive returns mirroring the performance of one or several specific underlying investment(s).

Flexibility in terms of excuse rights and implementation of defaulting mechanisms

Luxembourg fund documentation generally contains extensive provisions with broad flexibility in terms of excuse rights and defaulting provisions. Typically, the limited partnership agreement of a Luxembourg SCSp provides for excuse rights and defaulting provisions substantially similar as those of limited partnerships established in Anglo-Saxon countries.

ESG

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 (“**SFDR**”) imposes mandatory disclosure obligations in relation to ESG matters to financial market participants, including alternative investment fund managers in respect of the AIFs they manage. AIFMs notably have to disclose information as to how sustainability risk is integrated in the context of AIFs they manage, how they consider the adverse sustainability impact, as well as other sustainability-related information. SFDR provides for different information means. In particular, pre-contractual disclosures shall be made available to investors using similar information means as those permitted for the disclosure requirements of article 23 of AIFMD (e.g. via dedicated disclosure statements, annual report, website, etc). Other obligations require disclosures to be made in the AIF’s annual report or on the AIFM’s website.

SFDR sets three classes of funds triggering different level of disclosure obligations stem:

- **Article 6 of SFDR** covering funds which do not integrate sustainability into their investment process;
- **Article 8 of SFDR** applying to AIFMs whose AIFs they manage, promote environmental and/or social characteristics; and
- **Article 9 of SFDR** applying to AIFMs whose AIFs they manage, have sustainable investments as their objective.

Where are we with ESG and SFDR?

SFDR Level 1 is applicable since 10 March 2021. The EU Commission adopted on 6 April 2022 a set of technical standards to be used *inter alia* by AIFMs when disclosing sustainability-related information under the SFDR. The Level 2 delegated acts clarify the exact content, methodology and presentation of the information to be disclosed.

The draft level 2 delegated acts, that provide for specific templates for pre-contractual disclosures and periodic disclosures applicable to AIFs subject to article 8 and 9, apply since 1 January 2023.

Tax environment

Luxembourg is an onshore jurisdiction, at the heart of Europe, with the highest tax standards.

Luxembourg law provides attractive tax regimes for investments funds detailed below.

Withholding tax

No WHT is levied on interest and dividends paid by a Luxembourg fund to its investors.

Income tax

Funds structured under the SCS and SCSp legal forms (i.e., partnerships), or as FCPs, are in principle transparent for Luxembourg tax purposes. These funds are not taxed at their own level but taxation occurs directly at the level of the partners. Few exceptions may occur, but these should be dealt with by proper tax structuring.

Funds structured under a corporate legal form (e.g., SA, SCA, etc.) are, in principle, not subject to CIT and MBT.

Funds structured under a corporate legal form as a SICAR, or a RAIF having opted for the SICAR tax regime, are subject to CIT and MBT, at the standard aggregated rate of 24.94% in Luxembourg-city. However, are not taxable (i) the income resulting from securities (*valeurs mobilières*) as well as income resulting from the transfer, contribution, or liquidation of these assets, and (ii) the income arising from funds held pending their investment in risk capital, under conditions.

Net wealth tax

Funds structured under the SCS and SCSp legal forms (i.e., partnerships), or as FCPs, are not subject to NWT.

Funds structured under a corporate legal form (e.g., SA, SCA, etc.) are, in principle, not subject to NWT.

Funds structured under a corporate legal form as a SICAR, or a RAIF having opted for the SICAR tax regime, should only be subject to the minimum NWT at a fixed rate of EUR 4,815.

Benefit of double tax treaties

Funds structured under the SCS and SCSp legal forms (i.e., partnerships), or as FCPs, do not benefit from the Luxembourg DTT network. However, the partners of such funds may benefit from their respective DTTs.

Funds structured under a corporate legal form (e.g., SA, SCA, etc.) benefit from certain DTTs signed by Luxembourg.

Indirect tax

Registration duties

A registration duty of EUR 75 is due upon incorporation and any amendment of the articles of association of the Luxembourg companies.

Valued Added Tax

The normal VAT rate in Luxembourg is 17%, decreased to 16% in 2023.

FCPs are disregarded for VAT purposes and the services providers are deemed to be rendered to the management company.

Investments companies are considered as taxable persons for VAT purposes. Management services provided to a fund may be exempt from VAT.

Subscription Tax (*taxe d'abonnement*)

Funds organised as a SIF, or a RAIF having not opted for the SICAR tax regime, are generally subject to an annual subscription tax of 0.01% on the total NAV of the fund. Several exemptions may apply.

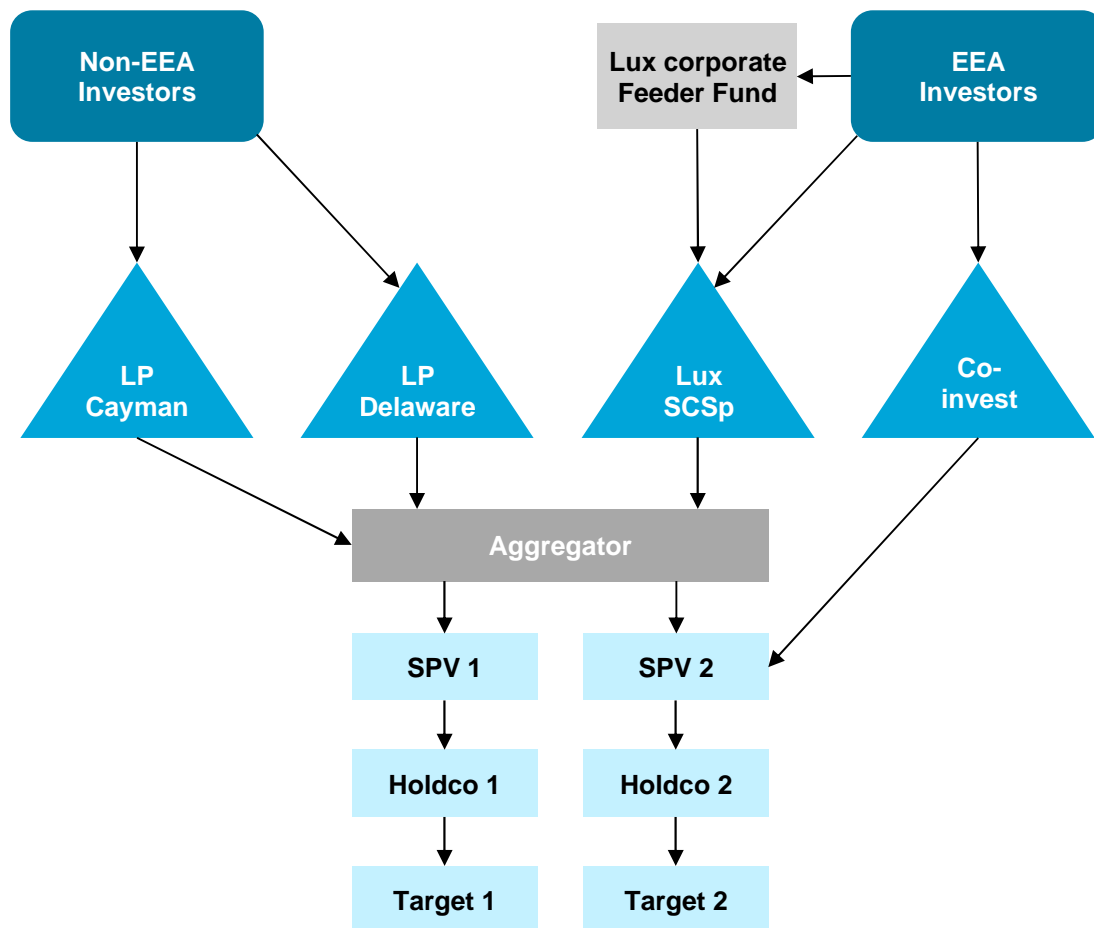
Luxembourg real estate levy

A real estate levy (*prélèvement immobilier*) of 20% applies to certain Luxembourg funds receiving or realizing income from real estate located in Luxembourg.

FATCA/CRS

Luxembourg investment funds are subject to FATCA and CRS. As financial institutions, they shall comply with the related due diligences, reporting and withholding rules.

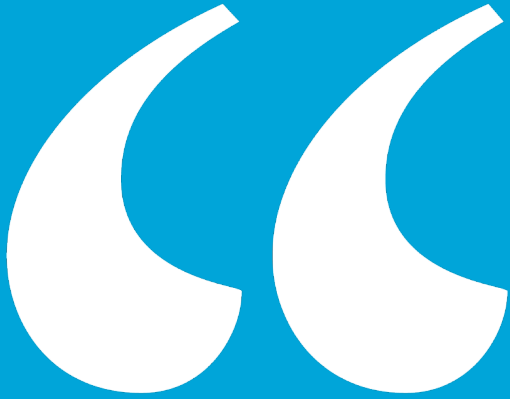
Parallel fund structures



The above structure chart reflects a typical example of a parallel fund investment program involving Luxembourg investment funds.

Key structuring points shall be noted:

- Investors in different jurisdictions may be targeted through the use of funds being themselves established in various jurisdictions;
- Luxembourg Master-Feeder Structures may be established with vehicles having different legal forms. As an example, the feeder fund may be established under the form of an S.A. SICAV-RAIF with a master fund being an SCSp. The Luxembourg feeder and master funds may be marketed within the EEA using the AIFMD marketing passports;
- A co-investment agreement will generally be entered into between each parallel fund;
- Co-investment opportunities may also be offered to investors and structured using a Luxembourg vehicle investing alongside the parallel funds;
- Parallel vehicles (leveraged or non-leveraged) may be opened to ECIs or non-ECIs investors and may be more generally structured in a way to try to address tax or regulatory issues arising in certain jurisdictions.



“Global heavyweight law firm White & Case opened its Luxembourg office in March 2022 and is definitely one to watch in light of its ability to leverage its international network and strong institutional client base”

Legal 500, Luxembourg, 2023

Ranked #2 for outbound M&A in Luxembourg

by deal volume in 2022 - Refinitiv M&A League Table

Ranked #1 for Capital Markets (Issuer Legal advisor) in Luxembourg

by deal value in 2022 - Bloomberg League Table

Ranked Firm to watch in Luxembourg

Legal 500 Commercial, corporate and M&A, 2023

Highly recommended for Investment Funds and Private Equity in Luxembourg

Leaders League 2023

White & Case Luxembourg

Almost all the transactions we advise on in Europe include elements of Luxembourg **law**, due to the prevalence of Luxembourg investment funds and holding company structures.

We assist clients investing in Luxembourg and creating their own fund products in Luxembourg, as well as Luxembourg-based clients on their ambitions to expand internationally, enabling their strategies and cross-border transactional activities.

Our clients include major corporations, leading financial institutions and alternative investment players (private equity, real estate, etc.), as well as privately held companies.

Our dedicated Luxembourg Practice is a great addition to our market-leading European capabilities, supporting our clients and our coverage as a truly global law firm, with 44 offices in 30 countries across EMEA, the Americas and Asia-Pacific.



White & Case Funds team “is well-positioned to leverage the firm’s extensive global network and asset management connections. Cagi-Nicolau has particular expertise advising on alternative investment funds, including private equity, real estate and infrastructure.”

Legal 500, Luxembourg, 2023

What we do and how we can help?

General Partner-side

We assist GPs and fund sponsors for structuring their investment funds in Luxembourg. This covers services such as:

- advising on the best corporate and tax structure and regulatory regimes (notably with respect to AIFMD) taking into account the investors base, the investment strategy and the management structure;
- providing regulatory advice – in particular with respect to AIFMD;
- submission to regulator for relevant approvals (where required);
- drafting legal limited partnership agreements, articles of incorporation or other constitutive documents of the fund vehicle, as well as the offering memorandum;
- reviewing and negotiating agreements with service providers (alternative investment fund managers, depository, etc.);
- assisting in investor onboarding process; and
- structuring of carried interest, organisation of employee investment entities and structuring of other incentive arrangements.

Investors-side

Structuring and negotiating fund documentations with investors, from a tax, corporate and remuneration perspective.

Providing regulatory, corporate and tax advice to institutional investors like pension funds, public investment entities, mutual funds (including UCITS), hedge funds and proprietary funds sponsored by insurance companies, banks and other.

What sets us apart

White & Case is uniquely positioned within the alternative asset industry

A combination of global reach and local knowledge

Our investment funds experts in Luxembourg work closely with our dedicated funds teams in New York, London, Hong Kong, Singapore, Tokyo, Washington, DC and other cities around the world.

A vast array of legal services and capabilities for fund sponsors and investors

- Integrated advice on tax and regulatory structuring;
- US banking and securities law and ERISA advice;
- Market knowledge of emerging markets fund terms;
- M&A, real estate, insolvency and project finance teams to assist with funds' downstream transactions.

Advising funds through all stages of their life

Whether a client is an established fund sponsor or a new entrant about to raise its first fund, White & Case has broad experience in providing assistance with structuring investment vehicles, considering the diverse needs of the sponsor and its particular investment program, and providing the critical guidance necessary to successfully negotiate the fundraising process.

Interdisciplinary practice

Our Investment Funds practice includes lawyers from White & Case's various practices worldwide. Leveraging the skills of lawyers throughout our global network ensures maximum efficiency, coordination and teamwork while keeping clients' business objectives paramount.

A long-standing experience in investment funds law and regulatory matters and a good knowledge of market practice

Our investment funds team has a broad experience in investment fund structuring and in reviewing and negotiating Luxembourg funds' legal documentation. Thanks to our long-standing experience, in addition to bringing our deep legal expertise to clients, we can also advise them on commercial aspects.

Flexibility and tailor-made assistance

We are carefully listening to our clients' needs and we are adopting a proactive stance. We help our client to navigate through the numerous sets of rules applying to Luxembourg alternative investment funds and we ensure that the legal advice we provide remains pragmatic and aligned with clients' specific objectives.

From the more straight-forward structures to the more complex fund programs

We are able to assist clients for the establishment of straight-forward fund structures but also for more complex investment programs, involving notably:

- ▶ Master-Feeder Structures;
- ▶ Parallel investment structures;
- ▶ Co-investment vehicles;
- ▶ Fund of funds vehicles;
- ▶ Carry holder vehicles;
- ▶ Restructuring of investment fund structures;
- ▶ Aggregator funds; and
- ▶ Multi-compartment funds.

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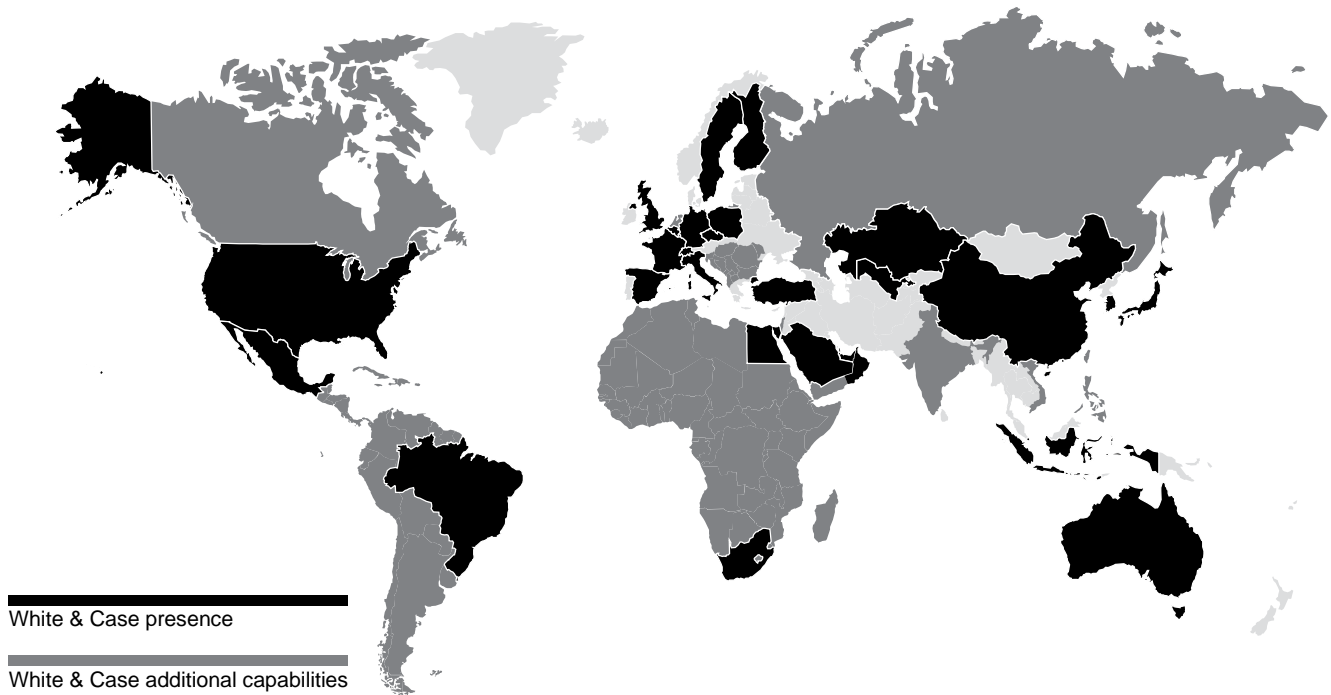
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Firm Overview

In 2022 we worked with clients from 115 countries with matters in 195 countries.



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Mexico City
Miami
New York
São Paulo
Silicon Valley
Washington, DC

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Astana	Frankfurt	London	Prague
Berlin	Geneva	Luxembourg	Riyadh**
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Cairo	Helsinki	Milan	Tashkent
Doha	Istanbul	Muscat*	Warsaw
Dubai			

Asia-Pacific

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Hong Kong
Jakarta*
Melbourne
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Shanghai
Singapore
Sydney
Tokyo

Glossary of terms

AIF	stands for Alternative Investment Fund, i.e. a collective investment undertakings, which: (i) 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; and (ii) is not authorised as an undertaking for collective investment in transferable securities;
AIFM	stands for alternative investment fund manager;
AIFMD	stands for 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 1095/2011;
CIT	means the corporate income tax (<i>impôt sur le revenu des collectivités</i>), as applied in the Grand Duchy of Luxembourg;
Company Law	means the law of 10 August 1915 on commercial companies, as amended from time to time;
CSSF	means the Luxembourg <i>Commission de Surveillance du Secteur Financier</i> in charge of the supervision of AIFMs established in Luxembourg;
DTT	means a double tax treaty;
EEA	means the European Economic Area (i.e., the EU Member States and Iceland, Liechtenstein and Norway);
ESG	means environmental, social and governance principles;
EU	means the European Union;
EU AIF	means (i) an AIF which is authorised or registered in a Member State under the applicable national law; or (ii) an AIF which is not authorised or registered in a Member State, but has its registered office and/or head office in a Member State;
EU AIFM	means an AIFM which has its registered office in a Member State;
FCP	stands for <i>fonds commun de placement</i> (mutual fund) and consists in an unincorporated co-proprietorship of assets managed by a management company in the interest of the fund's co-owners;
Marketing	means a direct or indirect offering or placement at the initiative of the AIFM or on behalf of the AIFM of units or shares of an AIF it manages to or with investors domiciled or with a registered office in the Union;
Master-Feeder Structures	means investment structure involving a feeder AIF, which: (i) invests at least 85% of its assets in units or shares of a master AIF, or (ii) invests at least 85% of its assets in more than one master AIFs where those master AIFs have identical investment strategies, or (iii) has otherwise an exposure of at least 85% of its assets to such a master AIF;

MBT	means the municipal business tax (<i>impôt commercial communal</i>), as applied in the Grand Duchy of Luxembourg;
Member State	means member states of the European Union or, depending on the context, member states of the European Economic Area;
National Competent Authority	means the national authorities of Member States which are empowered by law or regulation to supervise AIFM. The Competent Authority for Luxembourg AIFMs is the CSSF;
NAV	means Net Asset Value;
Non-EU AIF	means an AIF which is not an EU AIF;
Non-EU AIFM	means an AIFM which is not an EU AIFM;
NWT	means net wealth tax (<i>impôt sur la fortune</i>), as applied in the Grand Duchy of Luxembourg;
Professional Investor	means 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 (as amended);
RAIF	stands for <i>fonds d'investissement alternatif réservé</i> (reserved alternative investment fund);
SA	stands for <i>société anonyme</i> (public limited liability company) governed by articles 410-1 and followings of the Company Law;
S.à r.l	stands for <i>société à responsabilité limitée</i> (private limited liability company) governed by articles 710-1 and followings of the Company Law;
SCA	stands for <i>société en commandite par actions</i> (corporate partnership limited by shares) governed by articles 600-1 and followings of the Company Law;
SCS	stands for <i>société en commandite simple</i> (limited partnership) governed by articles 310-1 and followings of the Company Law;
SCSp	stands for <i>société en commandite spéciale</i> (special limited partnership) governed by articles 320-1 and followings of the Company Law;
SFDR	means 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;
SICAR	stands for <i>société d'investissement en capital à risque</i> (investment company in risk capital);
SIF	stands for <i>fonds d'investissement spécialisé</i> (specialised investment fund);
UCITS	means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC; and
WHT	means withholding tax as applied in the Grand Duchy of Luxembourg.

Luxembourg

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