

Luxembourg Investment Vehicles

JULY 2010



LUXEMBOURG INVESTMENT VEHICLES
OOSTVOGELS PFISTER FEYTEN
JULY 2010

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OOSTVOGELS PFISTER FEYTEN WOULD PARTICULARLY LIKE TO THANK THE VARIOUS LUXEMBOURG BODIES AND BUSINESSES FOR THEIR SUPPORT IN PROVIDING STATISTICAL INFORMATION THAT HAS BEEN INCLUDED IN THIS BROCHURE.

WE TRUST THAT THIS WILL SERVE AS A VALUABLE WORKING TOOL FOR THOSE OF YOU INVOLVED WITH LUXEMBOURG INVESTMENT VEHICLES.

CONTENTS

01	WHY LUXEMBOURG?	PAGE 6
02	MARKET OVERVIEW	PAGE 8
	2.1 <i>Key Developments</i>	PAGE 8
	2.2 <i>Origin of Fund Promoters in Luxembourg</i>	PAGE 10
	2.3 <i>Investment Policy</i>	PAGE 11
03	UNREGULATED STRUCTURES	PAGE 12
	3.1 <i>The Soparfi</i>	PAGE 12
	3.1.1 <i>Taxation</i>	PAGE 13
	3.1.2 <i>Luxembourg's Tax Treaty Network</i>	PAGE 16
04	REGULATED STRUCTURES	PAGE 17
	4.1 <i>Law of 2002 Structures</i>	PAGE 17
	4.1.1 <i>Part I Funds under the 2002 Law (UCITS)</i>	PAGE 17
	4.1.2 <i>Part II Funds under the 2002 law (NON-UCITS)</i>	PAGE 20
	4.1.3 <i>Part I & Part II: Common Features</i>	PAGE 22
	4.1.4 <i>Taxation</i>	PAGE 24
	4.2 <i>SIF</i>	PAGE 25
	4.2.1 <i>Taxation</i>	PAGE 28
	4.3 <i>SICAR</i>	PAGE 28
	4.3.1 <i>Taxation</i>	PAGE 31
05	SECURITISATION VEHICLES	PAGE 33
	5.1 <i>Taxation</i>	PAGE 34
06	LISTINGS	PAGE 35
	6.1 <i>The Bourse de Luxembourg Market ('BDL Market')</i>	PAGE 36
	6.2 <i>The Euro MTF</i>	PAGE 36
07	INVESTMENT VEHICLES FOR VALUE RECOVERY	PAGE 37
08	OUR LAW FIRM	PAGE 39
09	FIRM CONTACTS	PAGE 40
10	OUR OFFICES	PAGE 41
11	APPENDIX 1	PAGE 43
	<i>Comparison and Main Features of Luxembourg Investment Structures</i>	PAGE 44
	<i>Comparison of SIF, SICAR and Securitisation Vehicle</i>	PAGE 46
12	APPENDIX 2	PAGE 49
	<i>Useful Points of Reference</i>	PAGE 50

01 Why Luxembourg?



As the second largest investment fund industry after the United States, Luxembourg has developed a longstanding expertise in structuring global transactions.

Situated at European crossroads, Luxembourg is a wonderfully unique European jurisdiction. With a size of only 2,586 sq km, it represents one of the most important financial centres and is renowned for its stable yet adaptable legal and tax environment, which for years has been drawing crowds from afar.

As the second largest investment fund industry after the United States, Luxembourg has developed a longstanding expertise in structuring global transactions. With flexible legislative authorities and ongoing enhancements to the underlying system, a number of options are today available to suit individual requirements giving investors, asset managers and promoters access to a sound range of unregulated and regulated investment structures.

Luxembourg benefits from being a key onshore EU jurisdiction yet offering many offshore advantages. In addition, the jurisdiction has an extensive network of double tax treaties making it a strong hub for group holding and international investment vehicles. As the first international private banking centre in Europe and home to some of Europe's key EU institutions, Luxembourg has established a strong worldwide reputation as a safe and stable business environment.

As an independent Luxembourg law firm, we offer integrated high level advice on legal and tax matters. With offices based in Luxembourg and London, we have a long history of structuring investment funds from a regulatory and tax perspective as well as structuring underlying assets.

02 Market overview

Despite the unprecedented pressure on global economic conditions, Luxembourg, in many ways has sheltered many of the setbacks evidenced in other jurisdictions. Business activity within Luxembourg, of course, has to a degree lessened compared to previous years. However, activity continues at a positive pace and the legislative authorities proceed in making headway by introducing new initiatives for the benefit of the international business communities.

In the Luxembourg fund industry generally, a positive development amidst this backdrop has been the increase in funds managed by the jurisdiction which has grown by 18.04% to EUR 1841 bn during the course of 2008-2009 as indicated by the chart below.

one of the largest centres globally in terms of funds under management. Luxembourg currently has a market share in excess of 30% of European assets.

A recent study by Lipper FMI showed that the internationalisation of investment patterns and fund distribution should in fact uphold further growth of cross-border funds, which is the backbone of the Luxembourg fund industry. The global attractiveness of Luxembourg as one of the world's fund jurisdiction of choice should continue to expand in the years to come. Looking ahead, there are a number of initiatives in the pipeline which together will play a role in shaping and in a sense, triggering the evolution of Luxembourg's fund industry.

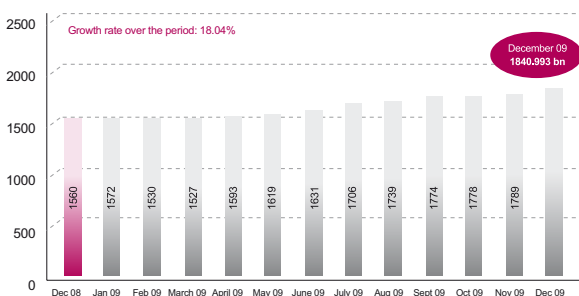
2.1. KEY DEVELOPMENTS

Alternative Investment Fund Managers Directive (AIFM)

One such initiative concerns the AIFM directive, which at the time of publication, is still under discussion. This project aims to create a comprehensive and effective regulatory and supervisory framework for AIFM at a European level and involves all European member states including Luxembourg.

The proposed Directive aims to provide robust and harmonised regulatory standards for all AIFM within this scope and will enhance the transparency of AIFM activities and the funds they manage towards investors and public authorities.

Net assets under management in Luxembourg funds (in billions of EUROS) Source: CSSF/ALFI



This reflects Luxembourg's prominent position within the global fund markets where it continues to rank as

There are a number of initiatives in the pipeline which together will play a role in shaping and in a sense, triggering the evolution of Luxembourg's fund industry.

The Directive will regulate all managers of funds other than UCITS, i.e. including managers of real estate, private equity and venture capital investments.

On 18 May 2010, two new amended versions of the Directive were released, however, the final text is due to be voted by July 2010.

This target date may be somewhat delayed considering the trilogy process which now takes place between the Commission, Parliament and Council and the various issues which the industry has brought to the attention of lawmakers, gradually and more and more forcefully.

For further information on this directive, useful points of reference can be either the EU Commission (www.ec.europa.eu), the European Parliament (www.europarl.europa.eu) or for a view from the private equity and venture capital industry perspective the EVCA (www.evca.eu).

UCITS IV

Another key development for the Luxembourg funds landscape lies with the introduction of UCITS IV which is set to be launched in each European member state by 1 July 2011. This initiative is the latest step by the European Commission in its project to create a genuine pan-European single market for investment funds.

The draft UCITS IV Directive will introduce new regulations designed to reinforce the existing UCITS

brand and ease the route for cross-border fund mergers and distribution. For fund management firms particularly, the pool and marketing of funds through the Member States of the European Union will be made easier, in turn triggering significant cost reductions as a result. For further information on this initiative, the European Fund and Asset Management Association (www.efama.org) may prove a useful point of reference.

Microfinance

Microfinance has increasingly become an important segment of the global markets and in Luxembourg, this is certainly no exception. More and more institutions have been looking to assist micro entrepreneurs in developing economies and have been turning to the financial markets for assistance in raising capital.

Luxembourg offers a flexible, yet robust legal and regulatory framework together with a solid range of service providers to ensure an effective and fast set up of a chosen vehicle investing in the area. Microfinance institutions have already been making use of the Grand Duchy's range of regulated and unregulated investment structures through vehicles such as Part II (Law 2002) funds, SICARs, SIFs, Securitisation Vehicles and structured products which are described in this brochure. Today, more than EUR 800 million of Microfinance assets are managed by Luxembourg's investment vehicles and this is expected to grow over time.

02 Market overview

Islamic finance

Capitalising on the diversified investment vehicle solutions available in Luxembourg and a pioneering history in Islamic finance, the jurisdiction is positioning itself as a centre of competence and a location of choice for Shariah compliant investment structures. Government authorities support this effort by providing a friendly legal and regulatory framework. As a recent example, the Luxembourg tax administration has released guidelines applicable to Shariah compliant investments. By the end of the year 2009, around 40 Shariah compliant portfolios were operating in Luxembourg.

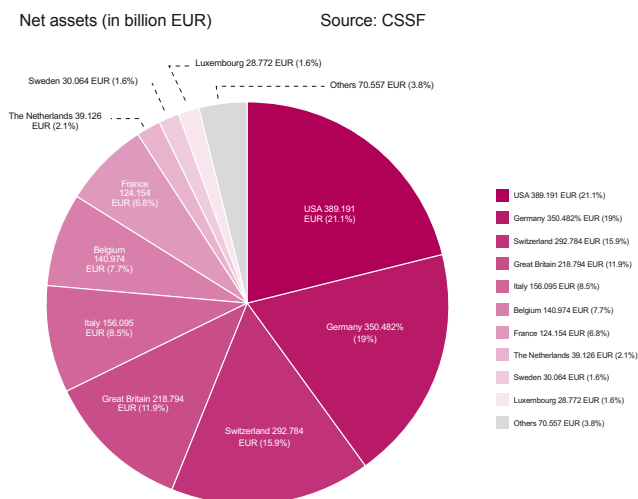
Cleantech

The environment has also become a key centre of attention for many businesses worldwide with many new initiatives being introduced in support of a sustainable and more efficient global energy market. Moving on from efforts towards cleaning the environmental impact of existing industrial methods, which was often offering only limited profit opportunities, investors are now focusing on new technologies and business models that offer investors and customers competitive returns while providing solutions to global environment challenges. Investment segments are very diversified, spanning from energy (infrastructure, generation, storage, etc.) to transportation, recycling and agriculture. Luxembourg has its part to play not only through the various incentives that have been introduced in support of the cause, but also, from an investment point of view – the jurisdiction offers a range of tax efficient regulated and

unregulated vehicles which can be used to structure investments in the area. These vehicles are outlined in sections 3 and 4.

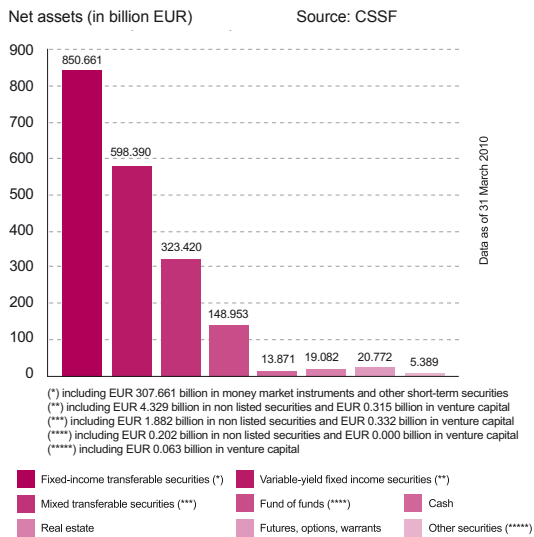
2.2. ORIGIN OF FUND PROMOTERS IN LUXEMBOURG

The chart below provides an outline of the origin of the various fund promoters in Luxembourg. It notes that the United States, Germany, Switzerland and Great Britain as the largest promoters with a presence there. Although their ranking may vary year-on-year, the latter countries have consistently been the main fund promoters in the Luxembourg funds industry over recent years.



2.3. INVESTMENT POLICY

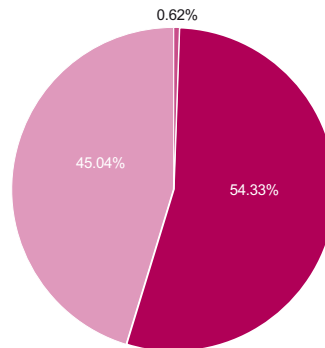
The investment policy of funds residing in Luxembourg can be seen as follows:



Number of UCIs:

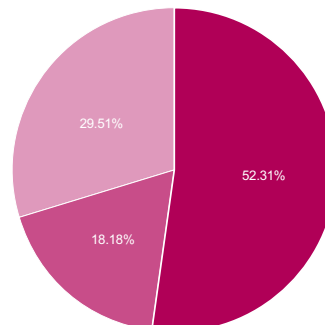
Law, Part of Law / Legal Form	FCP	SICAV	Others	TOTAL
Part I (law 2002)	1182	660	0	1842
Part II (law 2002)	283	350	7	640
SIF	448	576	15	1039
TOTAL	1913	1586	22	3521

Breakdown of UCIs by legal form



Data provided by: CSSF
Data as of April 2010

Breakdown by legal status



Data provided by: CSSF
Data as of April 2010

03 Unregulated structures

3.1. THE SOPARFI

Corporate regime

The most important of the unregulated structures and central to the structuring of cross border transactions is the Luxembourg holding and finance company, the so-called *société de participations financières* or 'Soparfi'. The Soparfi regime is available to both sophisticated and non sophisticated investors. There are no restrictions in this respect.

Soparfis are fast and inexpensive to incorporate. They are not subject to risk spreading requirements nor are they restricted to any specific type of investments. Moreover, Soparfis are subject to 'light' thin capitalisation rules. They qualify for both the Luxembourg participation exemption and the EU tax directives and can fully enjoy Luxembourg's extensive tax treaty network.

Legal forms available

The Soparfi is an ordinary holding and finance company. Although other corporate forms are available in principle, below are the most commonly used legal forms.

LEGAL FORMS	
1	Public Company Limited by Shares (SA)
2	Private Limited Liability Company (SARL)
3	Partnership Limited by Shares (SCA)

All of the above companies benefit from a limited liability.

Shares & debt instruments

The statutory minimum amount of share capital depends on the legal form. The SA and SCA must have a minimum share capital of EUR 31,000 whilst a SARL requires a minimum share capital of EUR 12,500.

Shares can be issued with or without par value and no longer have a minimum value.

All companies may have a share capital in Euro or in another foreign currency; however, adequate measures must be taken to cover any foreign exchange profits/losses as the tax returns must, in principle, be filed in Euro.

Different classes of shares can be issued depending on the corporate form including: ordinary shares, non-voting shares, preference shares, redeemable shares, profit shares, founder shares, tracking shares, alphabet shares, etc. Bonds, convertible bonds, profit sharing instruments, warrants and hybrid instruments can also be issued.

Management & corporate governance

The management and supervision structure is different for each of the legal forms. Some corporate forms such as the SA and the SCA can opt for a one-tier or a two-tier management structure combined with internal or external supervision.

The most important of the unregulated structures and central to the structuring of cross border transactions is the Luxembourg holding and finance company, the so-called société de participations financières or ‘Soparfi’.

Management committees, advisory committees and managing directors may be appointed.

There are corporate governance rules for listed companies (the 10 principles established by the Luxembourg Stock Exchange, see Section 6 below on ‘Listings’), however, private entities are not subject to formal corporate governance rules other than those resulting from the Company Act of 15 August 1915 (the ‘Company Act’).¹ This might, however, change in the future.

Soparfis are not regulated and have no obligation to entrust the custody of their assets with a depository.

Shareholders’ agreements

The flexibility of the Company Act is a strong asset when drafting shareholders’ agreements.

There are very little restrictions on shareholders’ arrangements (e.g. provisions of public order or mandatory legislation).

Business permit

A Soparfi does not require a business permit for its ordinary holding and group financing activities. However, in the event financial services are supplied that do not qualify for an exemption, a Soparfi may fall under the scope of the 1993 Law on the financial sector, and, therefore, may become subject to CSSF licensing and supervision.

3.1.1. TAXATION

General

Soparfis are subject to (national) corporate income tax at a rate of 21.84% (including a 4% surcharge for the unemployment fund) and municipal business tax at a rate of 6.75% (in Luxembourg-City). The combined tax rate amounts to 28.59% for companies established in Luxembourg-City.

They are also subject to a 0.5% annual net wealth tax which is levied on aggregate net operating assets (the ‘Unitary Value’) as per 1 January of each financial year. The Unitary Value is the estimated fair market value of the company’s assets minus its liabilities.

Soparfis incur payment of a lump sum of EUR 75 for registration duty upon incorporation.

Participation exemption

Providing certain conditions are met, a Soparfi can benefit from a full exemption from corporate income tax with respect to profit distributions received (including liquidation dividends) and capital gains realised in connection with its participations in other companies.

¹ Tax benefits under DTAs may require local substance, which itself leads to self-imposed implementation of certain governance requirements.



03 Unregulated structures

Amongst others, these conditions relate to:

- the tax status of the subsidiary, which must be either an EU qualifying entity or a foreign capital company subject to income tax at a rate comparable to Luxembourg corporate income tax;
- the level of the participation, which must represent a minimum 10% holding, or a historical acquisition value of EUR 1.2 million - or EUR 6.0 million for capital gains, and
- the holding period of the participation, which must be uninterrupted on a 12 months period.

Operational business expenses including interest charges economically linked to a participation that generates tax exempt income, will, however, not be deductible for the relevant fiscal year up to the amount of the exempt income realised on such participations in that tax year. Expenses linked to tax exempt participations which have been deducted will be subject to recapture or claw back upon realisation of capital gains on such participations.

Participations qualifying for the participation exemption regime are also exempt from net wealth tax under the aforementioned conditions (except that no minimum holding period is required). Debts related to assets exempt from net wealth tax are not deductible up to the value of the exempt assets.

The Soparfi is an ordinary company exclusively or partially engaged in holding and financing activities. However, in order to qualify for the participation exemption, it is necessary that it takes the legal form of one of the forms described on page 12.

Contrary to the public company limited by shares (*société anonyme*), the private limited liability company (*société à responsabilité limitée*) or 'SARL'. and the corporate partnership limited by shares (*société en commandite par actions*) or 'SCA' are not per se corporations for the purposes of the **USA 'check-the-box' rules**. Both SARL and SCA can hence elect to be treated either as a corporation or 'pass-through' entity under such entity classification rules.

USA 'check-the-box' rules: Business entities which are not corporations under US rules, such as partnerships and limited liability companies, may under certain conditions, elect to be treated for tax purposes as corporations (the entity classification).

Withholding tax

Dividends distributed by a Soparfi are subject to withholding tax at a rate of 15%, unless a partial or full relief is available under a tax treaty or domestic law. In principle, dividends distributed to EU qualifying companies in connection with a qualifying participation held in the Luxembourg distributing subsidiary are fully exempt from withholding tax pursuant to Luxembourg domestic law implementing the EU Parent Subsidiary Directive.

The Soparfi is an ordinary company exclusively or partially engaged in holding and financing activities.

The same applies to distributions made to parent companies which are resident in a tax treaty country in connection with qualifying participations. Reduced withholding tax rates are usually available under most tax treaties.

In principle, interest payments are not subject to Luxembourg withholding tax. Payments made in connection with profit-sharing bonds, 'silent partnership' type of arrangements or in connection with normal debt but on a non-arm's length basis may be subject to 15% withholding tax. Moreover, the law implementing the EU Savings Directive introduced a withholding tax (20% until 30 June 2011 and 35% as of 1 July 2011) on all income from savings, in the form of interest (as defined by the EU Savings Directive), paid or secured from 1 July 2005 for the benefit of individuals resident in other EU Member States (including in the Netherlands and UK associated or dependent territories)² or paid to a residual entity (as defined in the Savings Directive and for the benefit of individuals resident in other EU Member States). Such withholding tax will be due unless the identity of the beneficiary is disclosed to the beneficiary's EU country of residence.

Interest paid to Luxembourg resident individuals is subject to a 10% withholding tax representing their final tax liability (i.e., final 10% withholding tax) if the interest is earned within the management of one's private wealth.

Exit

The distribution of liquidation proceeds or the proceeds of a partial liquidation are not subject to withholding tax.

Thin capitalisation rules

Luxembourg tax law does not provide for formal thin capitalisation rules applicable to Soparfis. However, administrative practice has developed a default debt-equity ratio of 85/15 applicable to the financing of fixed assets (including participations). Debt financing in excess of the 85/15 ratio may still be acceptable where the aggregate interest charge does not exceed the arm's length amount of interest accrued on the maximum principal loan amount allowed as per the ratio. Excessive interest may be re-classified into a constructive dividend and may, therefore, not be deductible for corporate tax purposes. In addition, such constructive dividend may be subject to the dividend withholding tax at the domestic rate of 15%, unless full or partial relief is available under Luxembourg domestic law or a tax treaty.

Interest-free shareholder debt and borrowings for on-lending purposes are disregarded for the computation of the above debt-equity ratio.

² Anguilla, Aruba, the British Virgin Islands, the Cayman Islands, Guernsey, the Isle of Man, Jersey, Montserrat, the Netherlands Antilles and the Turks & Caicos Islands



03 Unregulated structures

3.1.2. LUXEMBOURG'S TAX TREATY NETWORK (AS OF JUNE 2010)

TAX TREATIES IN FORCE

AUSTRIA	AZERBAIJAN	BELGIUM	BRAZIL
BULGARIA	CANADA	CHINA	CZECH REPUBLIC
DEMARC	ESTONIA	FINLAND	FRANCE
GEORGIA	GERMANY	GREECE	HONG KONG
HUNGARY	ICELAND	INDONESIA	IRELAND
INDIA	ISRAEL	ITALY	JAPAN
LATVIA	LITHUANIA	MALAYSIA	MALTA
MOROCCO	MAURITIUS	MEXICO	MOLDAVIA
MONGOLIA	NORWAY	POLAND	PORTUGAL
QUATAR	ROMANIA	RUSSIA	SINGAPORE
SLOVAKIA	SLOVENIA	SOUTH AFRICA	SOUTH KOREA
SPAIN	SWEDEN	SAINT MARTIN ISLAND	SWITZERLAND
THAILAND	THE NETHERLANDS	TRINIDAD AND TOBAGO	TUNISIA
TURKEY	UNITED KINGDOM	USA	UZBEKISTAN
VIETNAM	UNITED ARAB EMIRATES		

TAX TREATIES UNDER NEGOTIATION

ALBANIA	ARGENTINA	ARMENIA	BAHRAIN
BARBADOS	CYPRUS	KAZAKHSTAN	KIRGHIZSTAN
KUWAIT	LEBANON	LIECHTENSTEIN	MACEDONIA
MONACO	PAKISTAN	SERBIA/MONTENEGRO	SYRIA
UKRAINE			



04 Regulated structures

Luxembourg also offers a variety of regulated investment structures.

The Law of 20 December 2002 (the '2002 Law') distinguishes between two categories of undertakings for collective investment. The so-called 'harmonised funds' benefit from the European Passport, and are regulated under Part I of the 2002 Law, which applies to Undertakings for Collective Investment in Transferable Securities ('UCITS' or 'Part I Funds'). These are discussed in Section 4.1.1 below. Part II of the 2002 Law applies to the undertakings for collective investment which are not eligible for treatment as UCITS. Funds falling within this category are simply referred to as Undertakings for Collective Investment ('UCIs' or 'Part II Funds'), and are discussed in Section 4.1.2 below. UCIs will have to apply for registration in other countries, on a case-by-case basis, to each national supervisory authority in order to have their shares distributed on this nation's market.

In addition to the 2002 Law structures, the SIF and SICAR (the latter is not a fund) are also regulated investment structures available to sophisticated investors, and are discussed in Sections 4.2 and 4.3 below.

4.1. LAW OF 2002 STRUCTURES

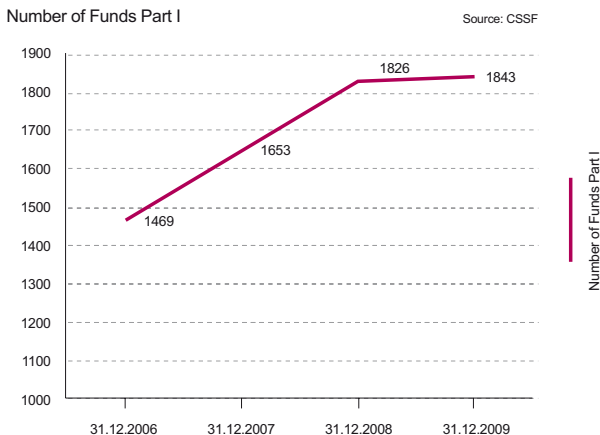
4.1.1. PART I FUNDS UNDER THE 2002 LAW (UCITS)

The 2002 Law transposes in Luxembourg the provisions of the EU Directive 81/611, which harmonises across all EU member states the investment restrictions applicable to investment funds so that funds may be freely marketed and distributed in a single pan-European market. Part I Funds are harmonised in accordance with the EU Directive and hence benefit from an 'EU passport': they may be distributed and marketed in other EU Member States upon a simple notification to the regulatory authority of the target country of distribution. This is a fast and cost efficient procedure and guarantees the right to market funds all over the EU.

As of 31 December, 2009, the number of Part I Funds under the 2002 Law (UCITS) registered on the official list in Luxembourg amounted to 1,843 entities. (Source: CSSF).

04 Regulated structures

The chart below highlights the growth in Part I Funds over the past few years.



Legal regime

All Luxembourg investment funds are supervised by the Luxembourg regulatory authority, the *Commission du Secteur Financier* ('CSSF'), and are organised in accordance with the laws and circulars applicable to Luxembourg investment funds. Pursuant to these legal sources, an investment fund may adopt one of the following legal structures:

- Contractual structure: a collective investment fund or 'FCP' (*fonds commun de placement*) managed by a management company;

- Statutory structure: an investment company under Part I may be a *société d'investissement à capital variable* ('SICAV').

All corporate entities are also governed by the Company Act, unless the 2002 Law derogates therefrom.

Contractual structure: The FCP

A joint co-ownership, the FCP offers investors limited liability (i.e. up to the amount invested) in a transparent structure without legal personality. This is why the FCP must be managed by a management company. The FCP is also transparent for tax purposes.

The management company of an FCP is usually set up in the form of a public company limited by shares (SA), a private limited company (SARL), a cooperative company (Coop.), or a corporate partnership limited by shares (SCA).

The FCP is comparable to English law unit trusts or the US concept of mutual funds.

Note: The UCITS management company (which may manage one or several UCITS) must have a minimum capital of EUR 125,000, plus additional own funds calculated as a percentage of the assets under management (0.02% calculated on assets under management exceeding EUR 250 Million), with a cap at EUR 10 Million.

All Luxembourg investment funds are supervised by the Luxembourg regulatory authority, the *Commission du Secteur Financier* ('CSSF').

As mentioned earlier, UCITS IV aims to create a pan-European single market for investment funds by improving the EU passport applicable to management companies. UCITS IV is set to be launched in 2011.

Corporate structures: The SICAV

The capital of a SICAV is variable by law. The fund must be organised as a public company limited by shares (*société anonyme*) or as a European Company.

The SICAV is a corporate entity that has legal personality. Its investors are shareholders of the investment company and have the right to vote. They are empowered to decide within the framework of the 2002 Law and the Company Act.

The SICAV is managed by a board of directors appointed by the general meeting of shareholders. The promoter and the management are, therefore, more exposed to the control of the shareholders, contrary to the FCP where the management company is an independent entity contractually bound to the fund and generally controlled by the promoter.

A SICAV will usually appoint an investment manager. Otherwise, it may elect to be self-managed, subject to a minimum capital requirement of EUR 300,000 at the time of their approval, with no additional requirement for own funds.

All investment companies are governed by the Company Act, unless the 2002 Law derogates therefrom.

Investment policy

The 2002 Law and the applicable CSSF circulars provide detailed investment restrictions for Part I Funds. The investments of a UCITS fund must generally consist solely of: (1) transferable securities and money market instruments dealt in on a regulated market in an EU Member State; (2) transferable securities and money market instruments traded in another market in an EU Member State which "is regulated, operates regularly and is open to the public"; (3) transferable securities and money market instruments admitted to official listing on a stock exchange in a non-EU country (or dealt in regularly in another regulated market which operates regularly and is recognised and open to the public), provided the choice of stock exchange or market has been provided for in the constitutive documents of the UCITS; (4) recently issued transferable securities and money market instruments, provided that the terms of issue contain an undertaking that application will be made for admission to official exchange listing or for trading in another regulated public market, and such admission is secured within one year of issue; (5) units of UCITS authorised under the UCITS Directive or of other undertakings for collective investment within the meaning of the UCITS Directive provided certain conditions are met and within certain limits;

04 Regulated structures

(6) deposits with credit institutions which are repayable on demand or have the right to be withdrawn and mature in no more than twelve months; (7) financial derivative instruments, including equivalent cash-settled instruments dealt in on a regulated market and/or financial derivative instruments traded over the counter provided certain conditions are met, and (8) money market instruments other than those traded on a regulated market provided that the issuer or the issuer of such instruments is itself regulated for the purpose of protecting investors and savings and provided they are issued or guaranteed by certain categories of issuers.

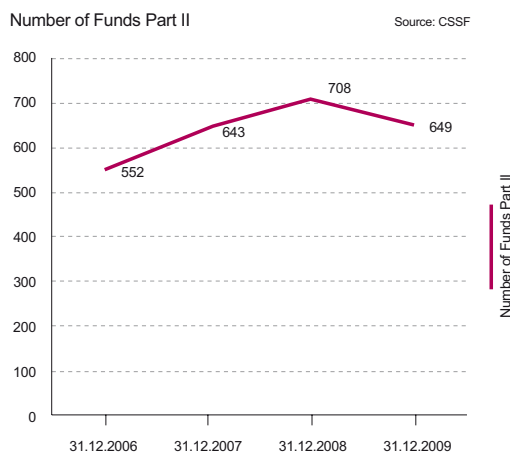
4.1.2. PART II FUNDS UNDER THE 2002 LAW (NON-UCITS)

UCIs are subject to much more flexible investment restrictions than UCITS. Their investment policy may include hedge, private equity, real estate and other fund of fund funds.

However, marketing of UCIs outside Luxembourg and across the EU will require the UCI to apply for registration in other countries on a case-by-case basis, thus being confronted with the specific requirements and procedures of each national supervisory authority. While Part I Funds are tailored to retail clients, Part II Funds may be sold to both retail and institutional investors but will be subject to each country's local distribution rules.

As of 31 December, 2009, the number of Part II Funds under the 2002 Law (non-UCITS) registered on the official list in Luxembourg amounted to 649 entities. (Source: CSSF).

The following chart highlights the take up of Part II Funds over the past few years.



Legal regime

Based on the laws and circulars applicable to Luxembourg investment funds, a Part II Fund may adopt one of the following legal structures:

As of 31 December, 2009, the number of Part II Funds under the 2002 Law (non-UCITS) registered on the official list in Luxembourg amounted to 649 entities.

- Contractual structure: a collective investment fund or FCP (*fonds commun de placement*) managed by a management company;
- Statutory structure: an investment company that may be a *société d'investissement à capital variable* ('SICAV') or a *société d'investissement à capital fixe* ('SICAF') (i.e. with variable capital or fixed capital).

All corporate entities are also governed by the Company Act, unless the 2002 Law derogates therefrom.

Contractual structure: The FCP

The FCP has the same characteristics as described on page 18 a joint co-ownership, with investors liability limited to the amount invested, with legal and tax transparency. As above, it will require a management company, organised as an SA, an SARL, a Coop. or an SCA. Please refer to page 18 for more details.

Corporate forms available: SICAV and SICAF

With the choice of different corporate forms, the option to have a variable share capital (SICAV) or fixed share capital (SICAF) provides flexibility.

MOST COMMONLY USED CORPORATE FORMS AVAILABLE

1	Public Company Limited by Shares (SA)	SICAV	SICAF
2	European Company (SE)	SICAV	SICAF
3	Partnership Limited by Shares (SCA)		SICAF
4	Private company Limited by Shares (SARL)		SICAF

In theory, a UCI organised as a SICAF may be open-ended, i.e. shares may be redeemable upon request from investors. In practice, this would be quite complicated procedurally, as each modification to the capital would need to be notarised and published.

In very general practical terms, a SICAV would be used for open-ended solutions and a SICAF for closed-ended options. The choice of legal forms available to a SICAF is unlimited in the 2002 Law, so that any corporate form in the Companies Act is, in principle, conceivable.

Developments outlined on page 19 on the SICAV are also applicable to the SICAF.

Investment policy

In contrast to Part I, Part II of the 2002 Law does not provide any specific provisions regarding investment policies of these types of UCIs.

However, there are a number of CSSF circulars and interpretations (on an individual case basis) regarding such.



04 Regulated structures

The CSSF has issued circulars regarding investments by Part II Funds in transferable securities, alternative investments (hedge funds), venture capital, future contracts and options and real estate. Please refer to the CSSF website (www.cssf.lu) and the applicable circulars regarding the specific restrictions.

In application of the 2002 Law, one circular issued by the CSSF regarding venture capital UCIs specifies some particularities.

The venture capital UCI can invest in new and/or developing companies, but it must adhere to certain restrictions:

- Diversification rule: A single investment may not (except during a transitional period) represent more than 20% of the entire portfolio;
- Borrowing restriction: Venture capital UCIs may borrow monies but leverage is restricted at 65%, and
- Risk warnings: The fund can be either incorporated or organised under contractual form and can issue shares or units at a very low value. In principle, there is no restriction on the ownership of shares or units and it is not necessary to be a knowledgeable or expert investor. The prospectus, however, must contain clear warnings in terms of the particular risks involved.

4.1.3. PART I & PART II: COMMON FEATURES

Compartment

The 2002 Law provides for the possibility to create several compartments with strict segregation of assets and liabilities between compartments. Compartments may be created in either contractual or corporate fund structures.

Qualified investors

There are no specific requirements in the 2002 Law regarding eligible investors. Although tailored for the retail investor, UCITS are sold to the public and also to corporations and institutions. UCIs may be sold to all categories of investors, subject always to provisions of the prospectus and statutory documents of the investment vehicle.

Regulation & supervision

As with all investment funds in Luxembourg, a UCITS or UCI is subject to authorisation and supervision by the CSSF. The UCITS will only be authorised if the CSSF has approved the constitutional documents and the prospectus, the choice of custodian, central administrator, transfer agent, investment advisor and/or manager and auditor. The CSSF will also check whether the promoter has the required professional qualification and relevant experience for the exercise of its functions.

A UCITS may not start its activities without prior authorisation from the CSSF, however, it remains subject to their supervision until its liquidation.

Vetting requirements regarding the promoter are not legally required, and result only from the administrative practice of the CSSF. EU insistence for a level-playing field may lead the Luxembourg regulator to revise its long-standing position.

With an FCP, the CSSF will check that the management company complies with the applicable legal requirements, as provided in the 2002 Law. A SICAV can be self-managed or can function through a separate management company.

A UCITS may not start its activities without prior authorisation from the CSSF, however, it remains subject to their supervision until its liquidation. Any amendment to its constitutive documents, any appointment of new directors or managers and any change of the management company (of a UCITS or UCI structured as an FCP) or its depositary is subject to prior approval of the CSSF.

Information & reporting

The UCITS or UCI must publish a prospectus containing information concerning the fund and, where applicable, its management company. UCITS must also publish a simplified prospectus. According to the 2002 Law, both the full and the simplified prospectus must include information necessary for investors to make an informed judgment of the investment proposed to them, and especially the risks attached thereto.

The simplified prospectus, however, is somewhat more basic, as it must be structured in such a way to be easily understood by the average investor.

There is no requirement in terms of minimum content or specific layout, other than the requirement to include the information necessary for investors to be able to make an informed assessment of the investment proposed to them and of the risks attached thereto. Essential elements of the prospectus are updated when new securities are issued.

Each UCITS and UCI must publish the following financial data:

- (1) an annual report for each financial year, and
- (2) a half-yearly report covering the first six months of each financial year.

The reports must be available to shareholders or unit holders within four months of the financial year-end for the annual report and within two months of the period it relates to for the half-yearly report.

The net asset value per share of the fund (and each compartment where applicable) has to be calculated and published on a regular basis (the CSSF requires at least twice a month), usually on a daily basis.

Note that the Law of 10 July 2005 on Prospectus for Securities may apply to UCIs of the closed-ended type.



04 Regulated structures

4.1.4. TAXATION

The FCP

An FCP is an undivided pool of assets and, consequently, is not subject to the specific lump sum registration duty of EUR 75. The FCP is considered as a look-through entity for income tax purposes and it is not liable to any annual subscription tax.

The management company

A management company (which manages only one FCP) is not subject to ordinary taxes (corporate income tax, municipal business tax, net wealth tax) and, therefore, benefits from the same tax treatment applicable to the fund itself. This tax regime is based on the interpretation given by the Luxembourg tax authority, based on the rationale that - as the FCP may not exist without its management company, the FCP and the management company are deemed to form one single fiscal entity liable to the subscription tax at a flat rate of 0.05% of the net asset value reduced to 0.01% for money market and pension funds.

The unit-holders

The taxation of the unit-holders depends on their type and tax residence.

Luxembourg resident unit-holders benefit from the same treatment as holders of SICAV/SICAF shares despite the tax transparency (administrative practice) leading to a taxation of the unit-holders on distributions by the FCP only at the time such distributions are made.

Non resident unit-holders are taxed depending on the type of income generated by the units, which is generally sourced outside Luxembourg. Foreign tax authorities generally treat an FCP as a tax transparent entity and tax treaties between the country of source and the country of residence of the unit holder may apply. This matter should be checked with the relevant foreign tax counsel.

The SICAV/SICAF

The investment company is subject to an annual subscription tax at a flat rate of 0.05% of the net asset value reduced to 0.01% for money market and pension funds. No stamp duty or other tax is payable in Luxembourg on the issue of shares in the fund except a lump sum registration duty of EUR 75, which is paid upon incorporation.

The shareholders

Taxation of shareholders also depends on their type and tax residence.

Luxembourg resident shareholders are subject to tax as holders of a portfolio of transferable securities. Income tax is levied on the capital gains only if they are considered as speculative gains (sale of shares within six months from their acquisition) or if realised on substantial participations (more than 10% of the SICAV/SICAF). If the sale of a participation not exceeding 10% of the company whose shares are sold occurs after a 6 month period, no income tax is due on the gains.

No stamp duty or other tax is payable in Luxembourg on the issue of shares in the fund except a lump sum registration duty of EUR 75, which is paid upon incorporation.

Dividend income is subject to ordinary taxes but benefits from an exemption of 50% on its gross amount.

Non resident shareholders are taxed in accordance with the laws of their tax residency.

There is no withholding tax on distributions made by a UCI or a UCITS. It is to note, however, that withholding tax may apply under the EU Savings Directive to certain distributions (re-qualified as interest payments) made by Luxembourg investment funds.

VAT

UCITs and UCIs are taxable persons for VAT purposes and are relieved from VAT registration requirements in Luxembourg - unless they are liable for Luxembourg VAT under the reverse-charge rules on services received from outside Luxembourg. As a general rule, management services provided to investment funds are VAT exempt.

FCPs are not disallowed from VAT registration; therefore, the VAT registration is obtained by their management company.

The above provides a very general and incomplete overview of the tax treatment of the management company, the FCP, the SICAV/SICAF and their respective investors.

Important information such as the residence, type and number of investors, the exact objectives of the

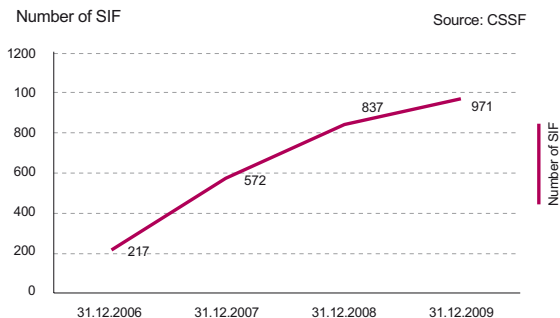
promoter in terms of control, remuneration, exit strategy, etc., should act as a guide in the choice of structure.

4.2. SIF

The newest of the available investment vehicles, the specialised investment fund or 'SIF' created under the law passed on 13 February 2007 ('SIF Act') replaces the so-called institutional investment funds which date back to July 1991. The new regulation replaces the 1991 law and regulates investment funds, the shares/units of which are not offered to the general public.

The SIF offers a great deal of flexibility making it a very attractive and popular investment vehicle.

The chart below highlights the number of SIFs launched since 2006 (prior to February 2007, the vehicles counted were 'institutional investment funds' under the 1991 law). At the time of writing, the number of authorised SIFs exceeds 1,000.



04 Regulated structures

Legal regime

Unless otherwise specifically provided in the SIF Act, the SIF is subject to the 1915 Company Act.

Investment policy

A SIF may invest in any 'values' and is not subject to any sectoral investment restrictions. It may, therefore, focus its investments (exclusively or not) on any type of investment or asset class. It can also combine exposure to various investment sectors, e.g. private equity investments with other investments such as in listed companies or derivatives. A SIF may also invest in other (collective) investment vehicle(s) and directly or indirectly in real estate through other entities.

The SIF is subject to risk diversification requirements and must spread the risks of its investments. The fulfilment of this requirement is assessed on a case by case basis. The CSSF adopted a Circular (CSSF 07/309) outlining the main directives to be observed for risk diversification and setting safe harbour rules.

Organisation forms available

With the choice of different corporate forms, the option to have a variable share capital and to provide for tailor made solutions for redemption of shares, repayments, distribution of dividends, share issues and liquidation, the SIF is a highly flexible investment vehicle. Alternatively, the SIF may be structured under the contractual form of an FCP.

DIFFERENT CORPORATE FORMS AVAILABLE

1	Public Company Limited by Shares (SA)
2	Private Limited Liability Company (SARL)
3	Partnership Limited by Shares (SCA)
4	Ordinary Partnership (SCS)
5	<i>Société en nom collectif</i> (SNC)
6	<i>Société civile</i> with fixed capital

The minimum subscribed share capital of the SIF is set at EUR 1,250,000 but only 5% of the subscribed share capital must be paid-in, the minimum share capital may include share premiums, and be reached within one year of the authorisation from the CSSF.

By derogation to the provisions of the Company Act, the SCA, SARL, SA and Coop. organised as an SA may create a variable share capital and provide in their Articles of Association that the amount of share capital shall always be equal to the value of their net assets. The variations in share capital are then *ipso iure* effected notwithstanding any regulations regarding publication and entry in the company registry that would otherwise be applicable under the Company Act.

Compartments

The SIF Act provides for the possibility to create several compartments with strict segregation of assets and liabilities between compartments.

The SIF Act provides for the possibility to create several compartments with strict segregation of assets and liabilities between compartments.

Qualified investors

The SIF is only open to qualified investors, i.e. (i) institutional investors, (ii) professional investors or (iii) expert investors. The latter must declare themselves an expert investor and either subscribe for amount of at least EUR 125,000 or alternatively, obtain a professional assessment that they qualify as an expert investor. The law expressly provides that this requirement does not apply to officers and other persons who interfere with the management of the SIF.

Regulation & supervision

While the SIF is subject to authorisation and supervision by the CSSF, it benefits from a supervisory regime which can be qualified as 'light' when compared with the regime applicable to ordinary UCIs under the 2002 Law.

Also important is that a SIF may start its activities without prior authorisation from the CSSF, provided the application for authorisation is filed with the CSSF within one month following the setting-up of the SIF. This constitutes an important departure from what is common practice for regulated vehicles, which adds to the flexibility and attractiveness of the vehicle.

It should be noted that any SIF which has commenced its activities before applying for CSSF authorisation may be confronted with an embarrassing situation if authorisation is subsequently denied.

However, there has been no example of this to date. If structured as an FCP, the management company of the SIF must, however, be authorised by the CSSF prior to the SIF becoming operational.

A SIF remains subject to the permanent supervision of the CSSF until its liquidation. Any amendment to its constitutive documents, any appointment of new directors or managers and any change of the management company (of a SIF structured as an FCP) or its depositary is subject to prior approval of the CSSF.

In addition to the supervision by the CSSF, the SIF shall appoint an independent auditor and a Luxembourg based custodian.

Information & reporting

The SIF must publish a prospectus (*document d'émission*) or information memorandum. There is no requirement in terms of minimum content or specific layout, other than the requirement to include the information necessary for investors to be able to make an informed assessment of the investment proposed to them and of the risks attached thereto. Essential elements of the prospectus are updated when new securities are issued.

The SIF only issues an annual report. There is no requirement to publish semi-annual reports or to prepare consolidated financial statements.



04 Regulated structures

4.2.1 TAXATION

The taxation of the SIF will follow the tax rules applicable to regular (i.e. fully regulated) investment funds. The SIF is an exempt entity which is not subject to corporate income tax or net wealth tax. It is only subject to a lump sum registration duty of EUR 75 which is paid upon incorporation, and to an annual subscription tax (*taxe d'abonnement*) at the rate of 0.01% calculated on the net asset value and payable on a quarterly basis.

Some exemptions from the subscription tax are available (e.g. for assets held through other UCITS, through institutional cash funds or pension funds and pension pooling funds). No withholding tax is levied on any distributions made by a SIF (irrespective of their form or type and tax residence of the beneficiary), except (i) in limited cases when the SIF is structured as an FCP or (ii) to payments that fall within the scope of the EU Savings Directive and related agreements with the Netherlands and UK dependent territories or that fall within the scope of the law of 23 December 2005 introducing a withholding tax on interest payments to Luxembourg resident individuals.

Shareholders' taxation

Non-resident investors will not be subject to any Luxembourg tax on income or gains derived from a SIF except with respect to capital gains realised on the transfer of SIF shares or the liquidation of the SIF, provided that such gains are derived from a substantial shareholding

(more than 10%) and that such transfer or liquidation takes place within the first 6 months of acquisition.

The gains may also be assessed for Luxembourg income tax if attributable to a Luxembourg permanent establishment or permanent representative.

Dividends distributed to resident individual investors are taxable as ordinary income whereas interest is subject to a final levy of 10% if earned by individuals within the management of their private wealth. Capital gains and liquidation proceeds are exempt if derived from a non-substantial shareholding (10% maximum) held for at least 6 months. Capital gains and liquidation proceeds derived from a substantial shareholding (more than 10%) held for at least 6 months are taxable at half of the global rate.

Value Added Tax ('VAT')

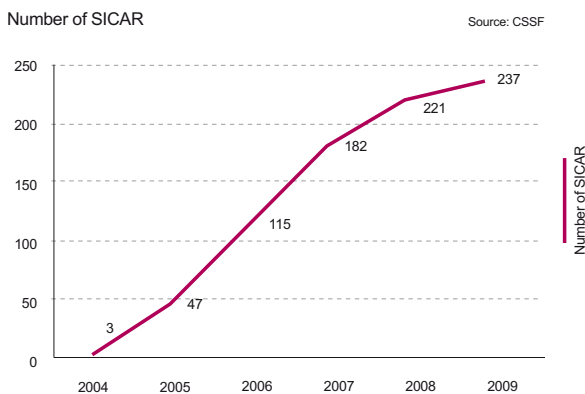
SIFs qualify as a taxable person for VAT purposes. However, the provision of management services to SIFs is exempt.

4.3. SICAR

The law on the venture capital investment company *société d'investissement en capital à risque* or 'SICAR' of 15 June 2004 ('SICAR Act'), as amended, grants the Luxembourg financial centre a real alternative investment vehicle for venture capital and private equity investments.

In order to qualify as a SICAR, the vehicle must invest in securities representing venture capital where the aim is to reward investors with the results of the management of its assets in return for the risk they bear.

The chart below shows the take up of registered SICARS from 2004-2009.



As of 5 February, 2010, the number of SICARs registered on the official list in Luxembourg amounted to 237 entities. (Source: CSSF). **Legal regime**

The SICAR is a corporate regulated vehicle that is governed by the ordinary provisions of the Company Act and tax legislation unless where the SICAR Law specifically otherwise provides. Indeed, in order to make it more adaptable to its specific purpose, certain provisions of the Company Act are optional and certain tax exemptions have been made available or have been widened.

Investment policy

In order to qualify as a SICAR, the vehicle must invest in securities representing venture capital where the aim is to reward investors with the results of the management of its assets in return for the risk they bear. Investment in venture capital is the direct or indirect contribution of funds to entities with a view to funding their start-up, development or introduction on the stock exchange. As this description is very wide, the CSSF closely supervises the SICAR and monitors its activities to ensure conformity to the purpose of the law.

Corporate forms available

With a choice of five different corporate forms, the option to have a variable share capital and the provision of tailor made solutions for redemption of shares, repayments, distribution of dividends, share issues and liquidation, the SICAR is a highly flexible investment vehicle.

The minimum subscribed share capital is EUR 1 million, which can be the subscribed share capital increased by share premiums. Subscription of the minimum capital must be achieved within twelve months following the approval of the SICAR, however, only 5% of each share must be effectively paid-in.

04 Regulated structures

DIFFERENT CORPORATE FORMS AVAILABLE

1	Public Company Limited by Shares (SA)
2	Private Limited Liability Company (SARL)
3	Cooperative company organised as an SCA
4	Partnership Limited by Shares (SCA)
5	Ordinary Partnership (SCS)

Compartments

A SICAR may have one or several compartments. The SICAR Law provides for segregation of the assets and liabilities of each compartment (unless otherwise provided in the articles of the SICAR) and each compartment may be liquidated independently from the others.

Qualified investors

Access to the share capital is restricted to qualified investors including (i) institutional, (ii) professional or (iii) expert investors. The latter must either subscribe for amount of at least EUR 125,000 declaring themselves as an expert investor or alternatively, they must obtain a professional assessment.

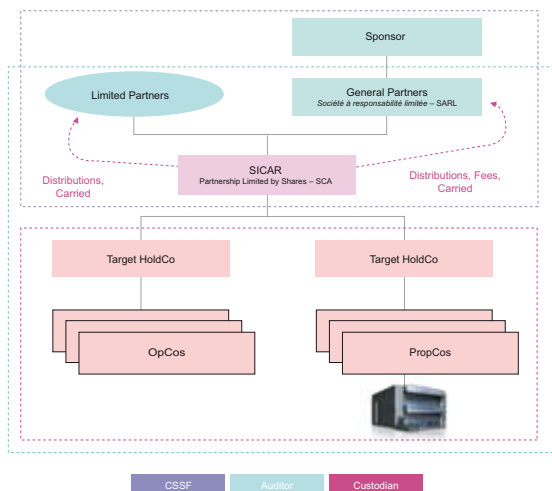
The law expressly provides that this restriction to qualified investors does not apply to “officers and other persons who are involved with the management of the SICAR”. This exemption includes general partners in a partnership (*société en commandite*).

Regulation & supervision

A SICAR can only commence its activities when it has been authorised by the CSSF.

Once authorised, the SICAR is registered on the official list of SICARs. Following registration, the SICAR becomes operational and is subject to permanent CSSF supervision. In addition, an independent auditor and a Luxembourg based custodian must be appointed. The central administration of the SICAR must be located in Luxembourg, which essentially means that accounting and maintenance of the shareholders’ register of the vehicle must be carried out in Luxembourg.

The chart below indicates the levels of control and supervision.



A SICAR can only commence its activities when it has been authorised by the CSSF.

Information & reporting

The information package available to investors mainly consists of a prospectus or private placement memorandum and an annual report. The latter must be made available to investors within six months following the end of the period which it relates to. An independent auditor must audit the annual report. The last annual report available should be supplied free of charge to any investor prior to subscription, and thereafter to any investor that require a copy. There is no need to prepare a half-yearly report.

Valuation of the assets of a SICAR is performed in accordance with the fair value principle and in accordance with the terms provided for in the Articles of Association.

4.3.1. TAXATION

From the five corporate forms available, four are taxable entities and one is tax transparent.

Taxable entities

The SICAR is subject to corporate income tax at the standard rate of 28.59%. An exemption is available for income and gains deriving from transferable securities representing risk investments as well as for income derived from cash deposits held for less than 12 months pending the funding of risk investments.

All other items of income derived from non-risk assets are, in principle, subject to corporate income tax.

In the event of any doubt concerning the 'transferable securities status' of certain assets, an advanced tax agreement can grant comfort. It must be noted that the SICAR is expressly exempt from net wealth tax and withholding tax. A lump sum registration duty of EUR 75 must, however, be paid upon incorporation.

Tax transparent entities

SICARs organised as an SCS are transparent for Luxembourg tax purposes.

Therefore, income derived from sources outside Luxembourg is attributed to the SICAR's partners who are generally non-Luxembourg tax resident and are subject to tax at the level of such partners according to the rules applicable in their countries of residence.

Shareholders' taxation

Resident shareholders are normally taxed on income generated in connection with their holding in the SICAR. The standard exemption, however, applies for capital gains realised by physical persons on direct or indirect participations not exceeding 10% in the share capital of the SICAR. Dividends are normally taxed and may benefit from the 50% exemption whereas interest is subject to a final levy of 10% if received by individuals within the management of their private wealth. Providing certain conditions are met, corporate entities benefit from the participation exemption with respect to dividend and capital gains realised in connection with qualifying participations in a SICAR.

04 Regulated structures

Non resident shareholders are not subject to income tax on capital gains realised in connection with SICAR shares. They are not subject to withholding tax with respect to profit distributions or interest payments received from SICARs (with exception to interest that falls within the scope of the EU Savings Directive and related agreement with the dependent territories of certain EU Member States, and for which the option for the exchange of information has not been exercised).

SICARs organised in the form of (non-transparent) capital companies qualify as a Luxembourg resident taxpayer and can, upon simple request, obtain a tax residency certificate from the Luxembourg tax authorities for the purpose of relevant tax treaties.

Tax consolidation

Tax consolidation of the SICAR with other entities is disallowed.

Value Added Tax ('VAT')

Both the SICAR and its management company can register for VAT purposes. Management services are, however, exempt from VAT.

Management fees and carried interest

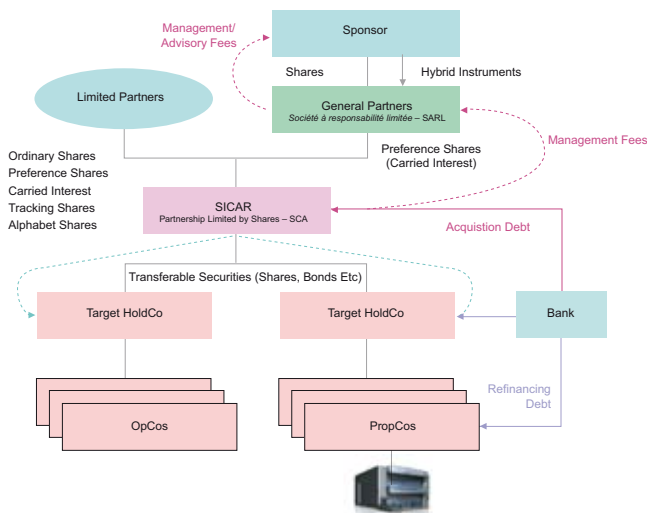
Management fees earned by the general partner are taxed, in principle, when accrued. There are various ways to mitigate the tax burden.

Beneficiaries of the 'carried interest' generally seek to structure their carried interest in the form of dividends and/or

capital gains. This is generally achieved if such carried interest is paid in connection with a special class of shares issued by the investment vehicle to a resident or non-resident special purpose company owned by the beneficiaries. The carried interest may then be paid either as dividend or as capital upon the repurchase of the carried interest shares. The same treatment may be obtained if the carried interest is paid out as remuneration or a redemption premium in connection with hybrid instruments.

Structure

As a result of the different interests involved and the wide variety of solutions, it is not possible to describe all available structures. The chart below shows one structure commonly used by a SICAR.



05 Securitisation vehicles

Another alternative investment structure is investment through securitisation vehicles ('SV'). Securitisation can be particularly interesting for investors as it can be customised to create the desired risk level exposure and the corresponding regulatory constraints.

Securitisation process

Securitisation is the financing process by which an entity (the 'Originator') transfers a pool of assets (primarily financial assets of any value, in any form) to a dedicated vehicle ('SV') in exchange for cash, the SV being financed by the issuance of securities backed by the assets ('collateral') transferred and the income generated by those assets.

Legal and corporate regime

The law of 22 March 2004 on Securitisation (the 'Securitisation Law') created a specific legal and tax framework for SVs, and provided flexibility in structuring a securitisation. The Securitisation Law describes securitisation as an operation by which a SV acquires or assumes risks either directly or through another entity. The risks incurred are the risks attached to the claims, other assets or commitments that were assumed by third parties or that are inherent to all or part of the activities undertaken by third parties. The SV in turn issues transferable securities whose value of yield reflects these risks.

The Securitisation Law distinguishes between SVs that have either been set up under the form of a corporation ('Securitisation Company'), or under the form of a fund ('Securitisation Fund') run by a Luxembourg management company.

The Securitisation Company may be set up under one of the following legal forms:

DIFFERENT CORPORATE FORMS AVAILABLE	
1	Public Company Limited by Shares (SA)
2	Private Limited Liability Company (SARL)
3	Cooperative company organised as an SCA
4	Partnership Limited by Shares (SCA)

A Securitisation FCP consists of one or more co-ownerships (*copropriétés*) or one or more fiduciary estates (*patrimoines fiduciaires*) managed by a Luxembourg management company.

All corporate entities are also governed by the Company Act.

The Securitisation Law provides for high investor protection via enhanced bankruptcy remoteness and the creation of a new professional of the financial sector, the 'fiduciary representative'.



05 Securitisation vehicles

Regulated or unregulated

As a rule, securitisation structures in Luxembourg are not regulated, unless a particular structure regularly issues securities for public distribution.

Being regulated means that these vehicles are supervised by the CSSF. They require a Luxembourg based central administration, a custodian bank and an auditor and need to issue a prospectus. There are some limited reporting obligations.

5.1. TAXATION

Securitisation Companies established as corporate entities are subject to corporate income tax at the current standard aggregate income tax rate of 28.59%. However, all commitments made to investors (whether as interest on debt securities or dividends or liquidation bonuses in connection with shares) can be deducted from the Securitisation Company's taxable base, thereby reducing it virtually to nil. The Securitisation Company is subject to registration duty on capital contributions up to a maximum amount of EUR 75.

Securitisation Companies may benefit from double-taxation agreements. The SV is a fully taxable company and should, as such, qualify as a tax resident of Luxembourg for Luxembourg domestic income tax purposes as well as for the purpose of the tax treaties concluded by Luxembourg with other countries.

However, whether or not the Securitisation Company will effectively benefit from tax treaty with respect to income derived from other countries depends on how these other countries view the vehicle's fiscal status (i.e. as treaty eligible or not).

Payments made by a Securitisation Company are not subject to tax, whether by way of assessment, withholding or otherwise. Capital gains realised on the shares of a Securitisation Company are not subject to tax in Luxembourg.

Further, SVs established as funds are not subject to any taxation in Luxembourg.



06 Listings

A listing increases a fund's potential investor base. At times, regulatory constraints mean that institutional investors cannot invest in unlisted securities. By listing securities, however, a fund can market to this type of investor and make information for investors publicly available. Also, many fund investors will only purchase investments which have a publicly quoted stock exchange price.

The Luxembourg stock exchange

Since its inception over 75 years ago, the Luxembourg Stock Exchange (LuxSE) has significantly developed its operations as a listing and trading centre for international securities and continues to have a growing position in the market. Luxembourg is an attractive and accessible market for both international issuers and investors.

Currently more than 45,500 securities are listed on the LuxSE. Approximately 17% of these are investment funds. The LuxSE has also maintained a dominant position in European bond issues where it is ranked first in Europe with 31,000 international bond issues representing 43% of total international bonds listed on EU markets. It also lists some 7,300 shares and units of investment funds in around twenty currencies (LuxSE data as of December 2009).

The LuxSE has further been listing Sukuk instruments (Sharia-compliant fixed income securities) since 2002 for a total amount issued of around USD 5.5 billion and has become a leading exchange for global depository receipts.

The LuxSE operates two markets:

- (a) the Bourse de Luxembourg market ('BdL Market'); and
- (b) the 'Euro MTF'.

Highly-rated issuers who wish to list in Europe but who have no need for a European Passport have decided to opt for the Euro MTF Market which is operated by the LuxSE in compliance with the EU Directive relating to markets in financial instruments (MiFID). The main benefits of listing on the Euro MTF compared to the BdL Market is the absence of any requirement to comply with IFRS or equivalent accounting standards and the application of less stringent financial reporting obligations.

A Luxembourg listing has many advantages for both domestic and foreign companies and funds. As well as its flexible regulatory framework, the LuxSE is known for having an efficient and short listing process.

Conditions for admission at the LuxSE (BdL Market and Euro MTF) can be summarised in the following chart:

06 Listings

01 REQUIREMENTS

02 SHARES

03 DEBT INSTRUMENT

NUMBER OF INVESTORS	Minimum number required. 25% free float. Derogations possible. Not applicable to investments funds.	Not applicable.
MINIMUM MARKET VALUE OF SECURITIES	At least EUR 1,000,000.	At least EUR 200,000.
NEGOTIABILITY OF SECURITIES	Freely transferable and fully paid-in Derogation possible.	Freely transferable and fully paid-in. Derogation possible.
NUMBER OF SECURITIES	Admission must cover all shares of the same class.	Admission must cover all obligations of same issue.
CORPORATE GOVERNANCE	Compliance with governance principle of LuxSE for Luxembourg issuers.	Not applicable.
OPERATING HISTORY	3 financial years. Derogation possible.	Not applicable.
FINANCIAL STATEMENTS	IFRS (or equivalent) for BdL market. Local GAAP of issuer for Euro MTF market.	IFRS (or equivalent) for BdL market. Local GAAP of issuer for Euro MTF market.

6.1. THE BOURSE DE LUXEMBOURG MARKET ('BDL MARKET')

Admission to trading on the BdL Market is subject to the drawing up of a prospectus in line with the Prospectus Directive 2003/71/EC which is then to be approved by the CSSF. A prospectus, which is compliant with the Prospectus Directive and the related European regulation will, if approved, be accepted throughout the European Union and will benefit from the so-called 'European Passport'.

6.2. THE EURO MTF

In order for securities to be admitted onto the Euro MTF Market, it will also be necessary to draw up a prospectus. The prospectus must be compliant with the specific provisions of the rules and regulations of the LuxSE and is subject to the approval of the LuxSE.

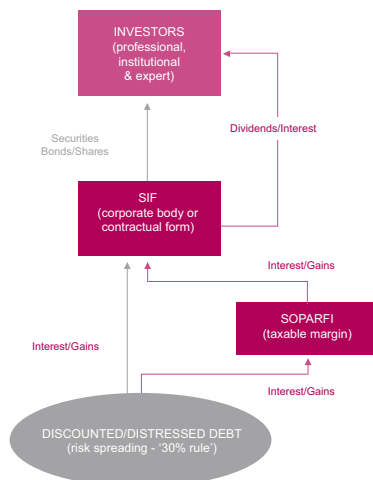
07 Investment vehicles for value recovery

Luxembourg offers a tax neutral environment for vehicles investing in value recovery and includes a range of regulated and unregulated structures as highlighted earlier in this document.

In the regulated market, both the SIF and SICAR can be used. The regulatory authority has confirmed that SICARs can acquire mezzanine and distressed debt provided the purpose is to increase the value of the investment and the development of the target/debtor.

Below is a typical straightforward SIF structure used for distressed debt investment.

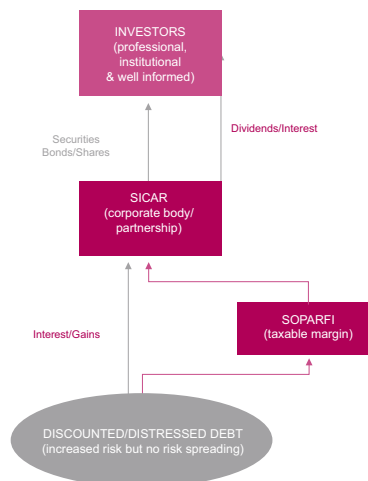
Regulated Structures - SIF and discounted/distressed debt



From a regulatory point of view, the SICAR has some common features with the SIF in that a custodian, auditor & prospectus are required. However, the main difference lies in the SICAR's investment policy which tends to be more restrictive as it is designed to invest in 'risk' capital.

Below is a typical straightforward SICAR structure used for distressed debt investment.

Regulated Structures - SICAR and discounted/distressed debt



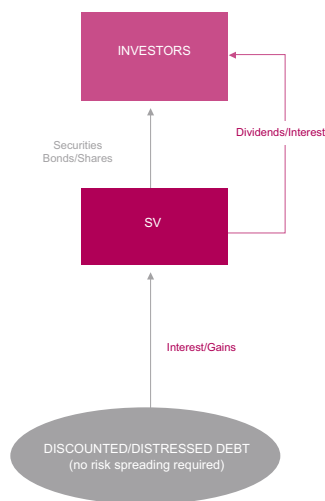
07 Investment vehicles for value recovery

For those seeking an unregulated environment, the SV and the Soparfi are two widely used investment vehicles to structure debt.

Both vehicles are efficient tools for structuring purposes, particularly in the distressed and discounted debt environments and can be combined with regulated structures whether in Luxembourg or with foreign regulated structures.

Below is a typical SV structure used for distressed debt investment.

Unregulated Structures – Securitisation vehicle ('SV') and discounted distressed debt





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APPENDIX 1
COMPARISON AND MAIN FEATURES OF LUXEMBOURG
INVESTMENT STRUCTURES



1. COMPARISON AND MAIN FEATURES OF LUXEMBOURG INVESTMENT STRUCTURES

1.1. COMPARISON OF THE MAIN STRUCTURES

	PART I FUND	PART II FUND	SIF
LEGAL FORMS	Corporation / mutual fund.	Corporation / mutual fund.	Corporation / partnership or mutual fund.
MINIMUM CAPITAL	EUR 1,250,000.	EUR 1,250,000.	EUR 1,250,000 (5% must be paid-in).
APPROVAL BY CSSF	Authorisation and supervision required.	Authorisation and supervision required.	Authorisation and supervision required (but lightened).
INVESTORS	Public/Institutional.	Public/Institutional.	Well-informed investors (min. EUR 125,000).
AUDIT	Required.	Required.	Required.
CORPORATE INCOME TAX	Only subject to subscription tax of 0.01% or 0.05% on net asset value.	Only subject to subscription tax of 0.01% or 0.05% on net asset value.	Only subject to subscription tax of 0.01% on net asset value.
NET WEALTH TAX	N/A	N/A	N/A
WITHHOLDING TAX ON DIVIDENDS, INTEREST AND LIQUIDATION PROCEEDS	None	None	None
TREATY ACCESS	In principle / no, with exceptions.	In principle / no, with exceptions.	In principle / no, with exceptions.

1.1. COMPARISON OF THE MAIN STRUCTURES CONTINUED

SICAR	SOPARFI	SV
Corporation or partnership.	Corporation.	Corporation, partnership or mutual fund.
EUR 1,000,000 (5% must be paid-in).	EUR 12,500 or EUR 31,000.	EUR 12,500 or EUR 31,000 for company, or if investment fund, capital requirement applicable for fund.
Authorisation and supervision required (but lightened).	Not required.	If offered to the public on continuous basis.
Well-informed investors (min. EUR 125,000).	No restrictions.	Depending on structure, typically well-informed.
Required.	May be required.	Required.
28.59 % for a corporate SICAR but exemption on income from transferrable securities. N/A for a transparent SICAR.	28.59% unless participation exemption applies.	28.59% if corporation.
N/A	0.5% on the net asset value unless participation exemption applies.	0.5% if corporation
None	15% on dividends unless participation exemption or treaty applies.	None
In principle, yes, for a corporate SICAR.	Yes	In principle yes, for a corporation.



1.2. COMPARISON OF SIF, SICAR AND SECURITISATION VEHICLE

SIF

Flexible investment vehicle

Regarded as an investment fund.

Available to institutional, professional and expert investors.

Investment Policy

In 'values' – the notion of values is much extended.

Being a fund, it is subject to risk spreading – principles set out by Circular 07/309.

Not one asset type should represent more than 30% of the portfolio, therefore, there is a soft diversification requirement.

The time span for risk diversification is 1-2 years but can be discussed with the CSSF if necessary.

No details on passive or active breaches of risk spreading requirements.

Exceptions are possible if justified.

Compartments

Possibility to create fully segregated compartments.

Segregation of assets and risks by creating separate pools of assets and liabilities within the same legal entity.

Vehicle can be structured with different asset classes for different types of investors.

Corporate Structure

A large choice of vehicles exist: corporate or contractual form such as *Fond Commun de Placement* (FCP) or variable capital company offering flexibility for distribution, capital repayment, calls, default shares, class of shares, non-voting shares etc.

Leverage

Possible if quantified in the prospectus.

Regulation

Requires a custodian, auditor & prospectus.

Tax Neutral.

SICAR

Flexible investment vehicle

Regulated venture capital/private equity vehicle which is tax neutral.

Available to institutional, professional and expert investors.

Investments

In 'risk capital' with a very wide acceptance by the CSSF.

This was further clarified in a CSSF circular 06/241 – where risk capital is defined as 'high risk with the intention to develop target entities.'

Parliamentary works: all types of PE investments.

No type of financing is excluded a priori (bonds, bridge, mezzanine, convertible debt including distressed debt).

No risk spreading.

No leverage limitation.

Compartments

Since October 2008, the amendment of the SICAR law has enabled the creation of compartments which presents the possibility to use one single structure for several asset classes and investment and/or diversified investor base.

SECURITISATION VEHICLE

Flexible investment vehicle

Choice between unregulated and regulated.

Investments

In 'risks'.

Leverage is possible if securities issued by the SV remain a substantial portion of the liabilities.

There is no risk spreading requirement.

Compartments

Fully segregated.

The SV benefits from a specific legal framework (Law of March 2004) but within an unregulated environment i.e. it is quick and easy to set up.

There are no regulatory or reporting constraints (with the exception of any that investors will impose on the promoter).

Tax neutral investment vehicle.

APPENDIX 2

USEFUL POINTS OF REFERENCE



2. USEFUL POINTS OF REFERENCE

For further information on any of the subjects covered in this booklet, some useful points of reference in relation to Luxembourg investment funds and law generally are as follows:

Luxembourg Financial Sector's Regulatory Body (CSSF):	www.cssf.lu
Association of the Luxembourg Funds Industry (ALFI):	www.alfi.lu
Luxembourg Bankers Association (ABBL):	www.abbl.lu
Luxembourg Juridicial Portal (Legilux):	www.legilux.lu
Luxembourg Central Bank:	www.bcl.lu
Luxembourg Chamber of Commerce:	www.cc.lu
Luxembourg Direct Tax Authorities:	www.impotsdirects.public.lu
Luxembourg Stock Exchange:	www.bourse.lu
Government Department and Public Services:	www.gouvernement.lu

