

30 October 2012 – Young IFA

*AIFMD – regulatory impact
and tax aspects*

1. Regulatory impact

1.1 Introduction

- G20
- EU Directive
- Level 2 measures
- Luxembourg law, including LP and carried interest

1.2 Key requirements of the Directive

- Obligations on Managers
- Scope
- Leverage / reporting
- Depositary

1.3 EU passport

1.4 Various implementation phases

- Grand-fathering: July 2013 – July 2014
- Private placement / Passport: July 2013 – July 2015 – July 2018

1.5 Challenges for Luxembourg

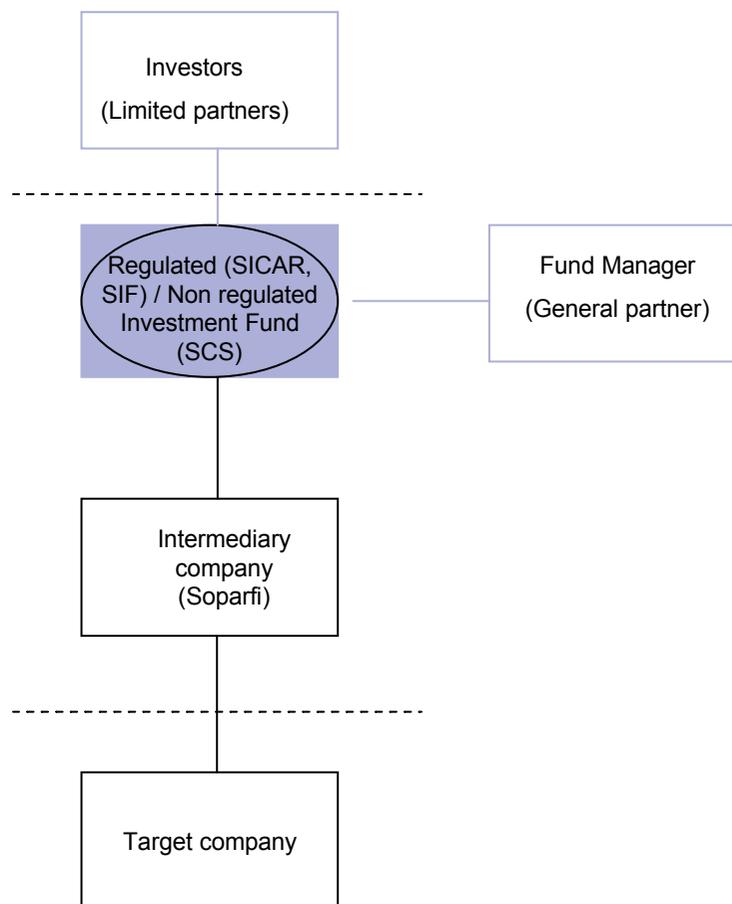
- Delegation rule
- Depository liability
- Competitiveness

1.6 Opportunities for Luxembourg

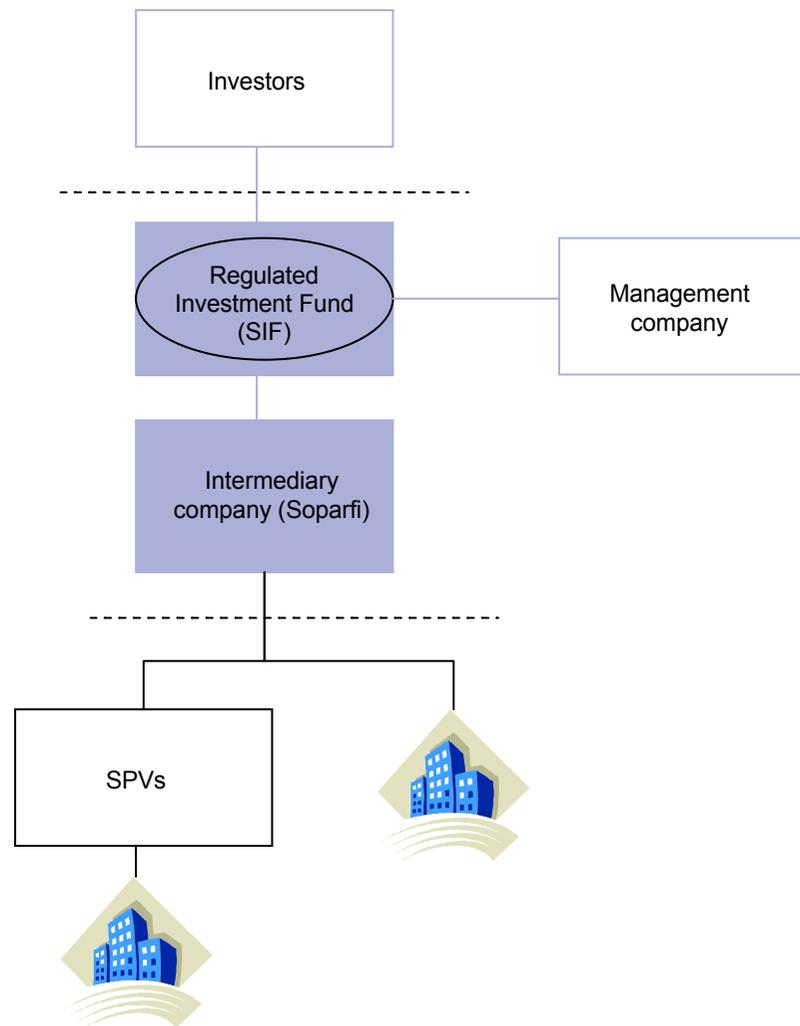
2. Tax aspects

- 2.1 Typical private equity structure
- 2.2 Typical real estate structure
- 2.3. Main tax aspects to be considered

2.1 Typical private equity structure



2.2 Typical real estate structure





2.3 Main tax aspects to be considered

2.3.1 Focus on investment funds

2.3.2 Focus on management structures

2.3.1 Focus on investment funds

- Direct taxation
 - The Luxembourg limited partnership (SCS)
 - Regulated (SIF, SICAR)
 - Unregulated

- VAT
 - New article 44.1 d)
 - No VAT definition of « AIFs »
 - Treatment of management fees
 - Impact for PE

2.3.2 Focus on management structures

- Direct taxation
 - Carried interest
 - Non Luxembourg AIFs
 - Taxation of management companies
- VAT
 - Treatment of investment advisory services (case pending in front of the ECJ, C-275/11)
 - For any type of funds
 - AG conclusions on 8 November
 - Treatment of custodian bank services
 - « control/supervision » / « global custody » services
 - Update of circular 723?

Questions?

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