

## Q. Why is Luxembourg the centre for real estate funds?

**A:** Luxembourg has been a centre for the structuring of real estate funds for quite some time now.

As of Q3 2017, the Luxembourg supervisory authority, the Commission de Surveillance du Secteur Financier, reported 316 regulated real estate funds (comprising single funds and compartments of umbrella structures) in Luxembourg, with close to €56bn in assets under management.

These figures do not take into account the multitude of unregulated vehicles active in the real estate space that are domiciled in Luxembourg. These are either used as fundraising vehicles (mostly qualifying as alternative investment funds) or as service purpose vehicles.

Luxembourg real estate funds are primarily used by non-Luxembourg fund sponsors to invest into overseas property.

The success of Luxembourg in this area is multifaceted but can be summarised as follows: Luxembourg offers a flexible corporate and regulatory environment. This allows for the structuring of real estate funds under different corporate forms.

During the past couple of years, the revamped Luxembourg limited partnership (société en commandite simple or SCS) and the special limited partnership (société en commandite spéciale or SCSp) have become increasingly popular.

Different regulatory regimes are also available. A fund can be

set up either as a fully regulated SIF or as an unregulated AIF.

**2** Luxembourg is a politically and socially stable country. Its supervisory authority, the CSSF, is very business-minded and has a pragmatic approach to the ever growing regulatory constraints in the sector.

**3** Luxembourg is attractive from a tax viewpoint as it offers the possibility to combine the fund and its capital-spending structure in one jurisdiction which has a large network of double-tax treaties.

**4** Luxembourg offers a broad variety of excellent service providers to funds. Services can be rendered in a variety of languages, including English, French and German.

In this already attractive and diverse context, a new tool has been added to Luxembourg's structuring tool box. In July 2016 the fonds d'investissement alternative réservé or restricted alternative investment fund (RAIF) was launched.

The main feature of the RAIF is that it offers all the structuring flexibilities of a fully regulated vehicle but is not itself regulated. It is, however, indirectly regulated and supervised through its alternative



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investment fund manager (AIFM) which it has to appoint, as explained below.

The RAIF aims to synchronise the Luxembourg regime with the new international regulatory emphasis, which has moved from a product-focused supervision to a management focused supervision.

The RAIF offers an ideal fund vehicle for real estate asset managers. To a large extent it replicates the regime applicable to the Luxembourg SIF (and SICAR) and is not subject to the prudential supervision by the

CSSF. Nonetheless, investors can avail themselves of some level of regulatory protection. Indeed, a RAIF has to be managed by a duly authorised external AIFM. In addition, a RAIF has to appoint a depository for its assets and an approved statutory auditor for its accounts.

The RAIF is a game-changer for the Luxembourg alternative asset management industry as it offers managers an expedited time to market.

Furthermore, the RAIF offers structuring flexibilities such as segregated compartments (that can cross-invest) which were previously not available for these types of vehicles.

The RAIF is not available to AIFMs that benefit from an exemption under the Alternative Investment Fund Managers Directive (AIFMD).

It is important to note that the AIFMD marketing passport is available to RAIFs. This streamlines the cross-border marketing of the RAIF throughout Europe.

Co-written by Hogan Lovells trainee Simon Recher

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