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# Debt funds and loan origination

## Nature abhors a vacuum

So do hedge funds and the like. Since the financial crisis, alternative investors have progressively been pouring their funds into quenching the unsatisfied thirst for credit.

### Context

Let's think about the financial crisis and its reverberating effect for a second.

What comes to mind are banking system failures, euro zone deficit, country downgrades and the credit crunch. Not very appealing, are they?

This does however mean that there are vast opportunities to fill the credit gap with many borrowers looking for alternative sources of credit.

Alternative investors such as hedge funds are now filling this financing void: they have been investing into what they see as a rewarding opportunity, i.e. they have been taking the place of the banks and other traditional lenders by providing funds to those who can no longer access them.

Alternative funds such as debt and hedge funds are providing asset-based financing for a variety of transactions involving both large and small businesses, loans to private equity and other hedge funds, fund formations, venture capital, as well as real estate firms.

The credit market has an attractive risk/return profile compared to other asset classes, allowing debt funds to develop by:

- Providing funding to borrowers;
- Diversifying funding away from the banking system
- Responding to current liquidity requirements/needs
- Channelling resources towards specific needs more efficiently as a result of increased specialisation
- Taking advantage of the illiquidity premium

Deloitte can help alternative investors to get the most from the credit market.

### Key Issues

The origination of loans is traditionally an activity which is performed by the banking sector.

Following the economic downturn, the banking industry has been the subject of increasingly stringent regulations (Basel III, Dodd-Frank, etc.).

These regulatory constraints may well be an opportunity for Luxembourg to attract debt funds looking to originate loans in a safe, efficient and, if required, lightly regulated framework, but without being subject to banking regulations.

### Main Challenges

A debt fund will face the following challenges:

I. Determination of the appropriate structure depending on the:
- Country of investors/investments
- Desired level of regulation
- Economic constraints

II. Implementation of the structure by:
- Obtaining the required regulatory approvals when applicable
- Establishing the fund and its management company
- Optimising the tax position of the structure

III. Monitoring the loans origination in light of:
- The Luxembourg banking regulations
- Potential impact of the existing regulations (FATCA, EUSD, AIFMD, EMIR, etc.)
- Anticipating developments related to shadow banking aspects and their potential impacts on the structure

IV. Compliance with legal, accounting and regulatory obligations throughout the life of the fund.

V. Winding-up of the structure.

## Our Services

### Preliminary work

Our services can be articulated over the different steps of the implementation and life of a debt fund:

- Assisting with the identification of opportunities
- Conducting due diligence on debt portfolios
- Selection of the main service providers
- Analysis of the regulatory aspects of the structure
- Preliminary discussions with the local authorities

### Setup of the structure

- Setup of the fund structure in Luxembourg (including regulatory approvals)
- Setup of the special purpose vehicle (if applicable)
- Assistance in drafting the main agreements governing the relation of the fund
- Assistance with the development of policies and procedures
- Management/performance fee structuring
- Confirmation of the tax treatment applicable to the Luxembourg special purpose vehicle(s) and/or the General Partner/Management Company of the fund
- Coordination with external service providers

### Ongoing work

- Tax compliance services
- Audit services

### Exit Strategy

- Working with portfolio companies by undertaking business reviews or outlining exit strategies
- Advising on appropriate liquidation strategies to preserve or maximise investor value
- Assistance with the downsizing of portfolios, through securitisations

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