



**Reserved Alternative
Investment Funds (RAIF)**

The missing link

July 2016

RAIF

The ultimate tool to achieve alternative investment industry needs

Why a new vehicle?

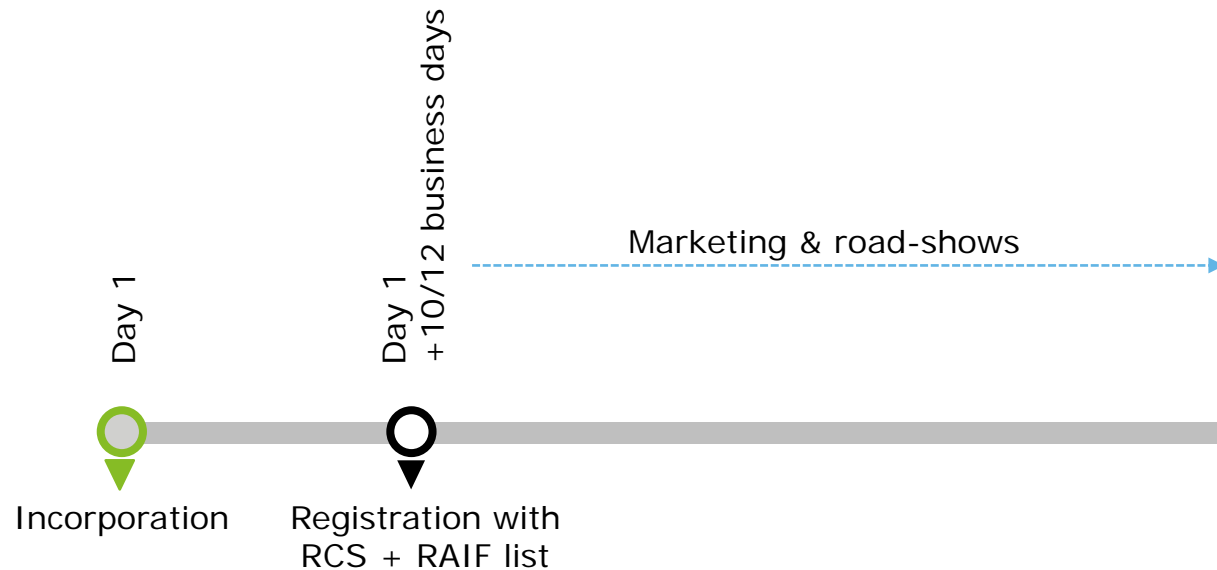
- **Overlapping regulatory framework** at product/manager level
- **Reduction in the time to market**
- **Significant costs** incurred
- SCS/SCSp/Soparfi regime does **not allow segregation of risks and variable capital**

What was proposed?

- Following strong lobbying from industry specialists to create a more **flexible mechanism** that is based on all currently available regimes, on 13 July 2016 the Luxembourg Parliament voted on a new law for the purpose of creating a **new type of alternative investment fund** in Luxembourg, the RAIF
- The law offers a mechanism "**directly inspired**" by the **currently available fund regime**

RAIF

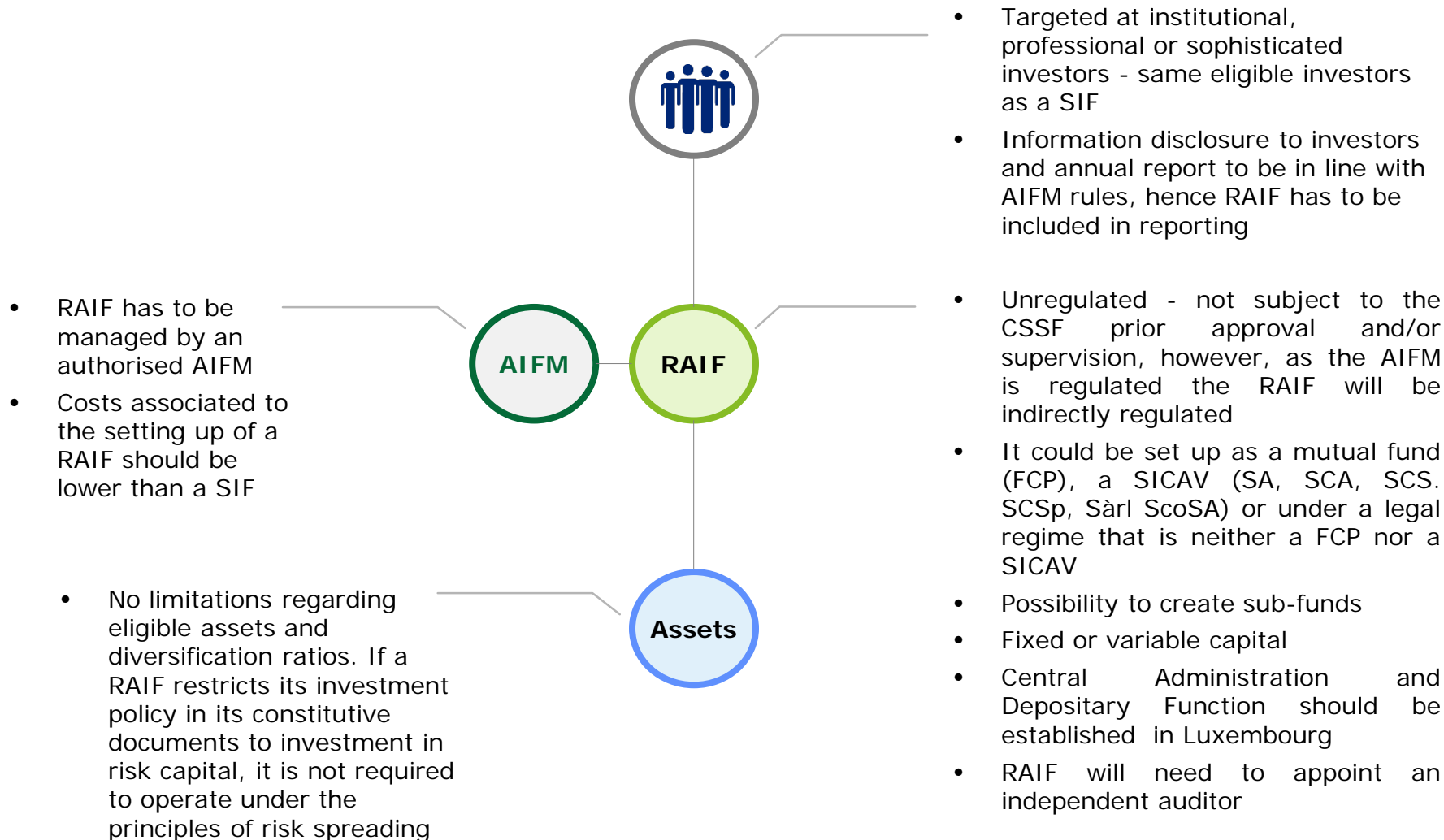
As from now on, projects can be launched...



- The vehicle will be an AIF that is not subject to the CSSF supervision, hence **less time is required for setting-up**
- The RAIF has to be **managed by an authorised AIFM** located in Lux/EU/3rd country (where AIFMD passport available)

RAIF

Minimal rules should apply while benefiting from the AIFM status



RAIF

Points of attention

Even though the RAIF is not regulated, supporting documentation is required (subscription agreement, set-up documentation, depository agreement, etc.)

Role of the auditor in the structure and at the level of the RAIF is key/central

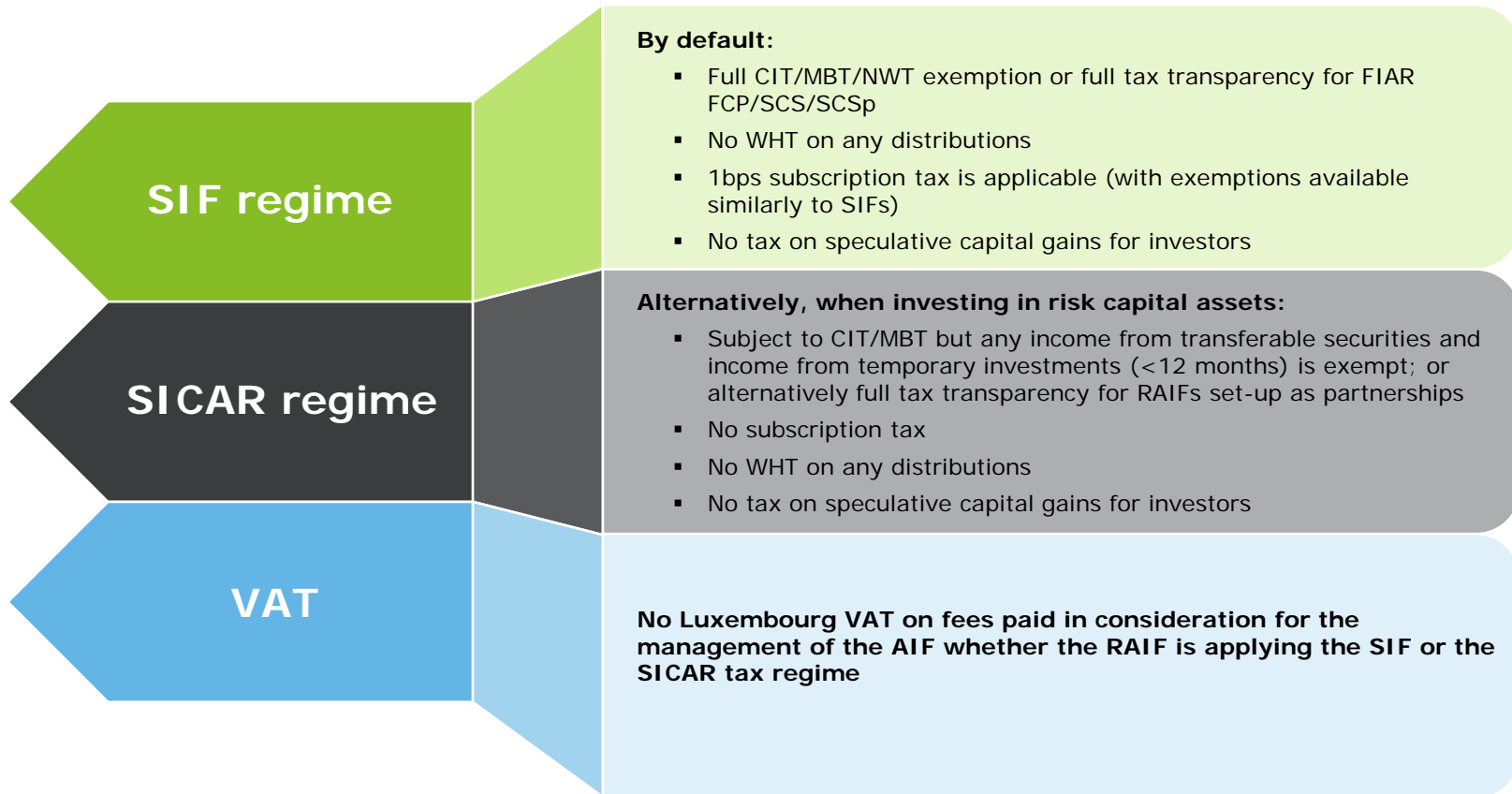
Distribution and marketing can be organized similarly to any other EU regulated investment vehicles

CSSF Circulars as reference and best practice



RAIF

A tax neutral fund vehicle relying on the existing SIF or SICAR regimes

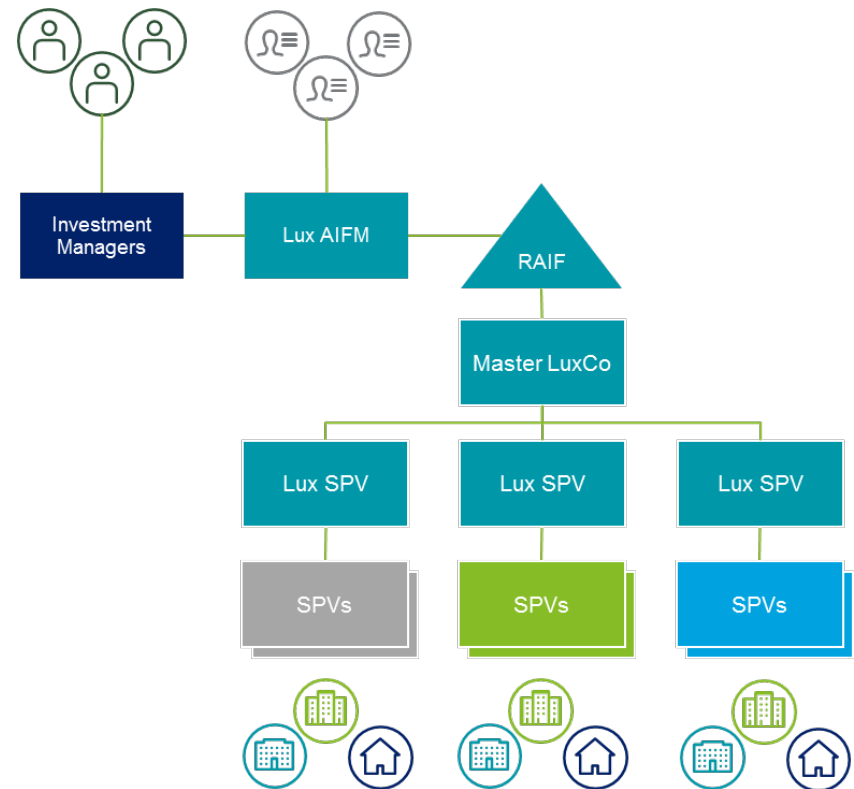


What is the right business model to operate going forward?

A new tax environment requiring a change in the approach

- Tax residency is a critical element in determining the right to rely on certain tax benefits (treaty benefits or EU Directives):
 - Tax residency should be understood in accordance with international tax law principles (OECD), EU concepts (e.g. Principal Purpose Test) or ECJ case laws and foreign jurisdictions tax principles (e.g. GAAR, domestic case laws, etc.).
 - The final BEPS reports dated 5 October 2015 - aimed at fighting certain tax optimization/avoidance strategies – made some precise recommendations re. the design of domestic rules to prevent treaty abuse.
 - The EU tightened its tax framework and followed some of the BEPS recommendations:
 - ▶ Amendment of EU Parent-Subsidiary Directive to introduce so-called GAAR (January 2015)
 - ▶ Directive on Common Reporting Standard (December 2014)
 - ▶ Directive on the exchange of information on cross-border ATA/APA (December 2015)
 - ▶ Directive on Country-by-Country reporting (May 2016)
 - ▶ Anti Avoidance Tax EU Directive (July 2016)
- A consolidated model whereby the AIF (pooling investors) and the SPVs (pooling all the investments) are in the same jurisdiction with a certain minimum level of substance/activities should allow to reduce the risk of challenges from a BEPS/foreign tax perspective and make the structure appear more robust.
- The RAIF vehicle could be one solution that fits into a wider strategy of sustainability of your fund structure. Expectation is that this new business model should meet the Principal Purpose Test, recommended by the EU in respect of action 6 and 15 of BEPS.

Example of a consolidated model (simplified chart)



Key Contacts



Private Equity & Real Estate Leader

Benjamin Lam
Partner
+352 451 452 429
blam@deloitte.lu



Investment Management Leader

Johnny Yip Lan Yan
Partner
+352 451 452 489
jyiplanyan@deloitte.lu



Tax Leader

Raymond Krawczykowski
Partner
+352 451 452 500
rkrawczykowski@deloitte.lu



Global Investment Management Consulting Leader

Benjamin Collette
Partner
+352 451 452 809
bcollette@deloitte.lu

Key Contacts



Regulatory Leader
Simon Ramos
Partner
+352 451 452 702
siramoss@deloitte.lu



Tax – Real Estate Leader
David Capocci
Partner
+352 451 452 437
dcapocci@deloitte.lu



Tax – Real Estate
Francisco da Cunha
Partner
+352 451 452 337
fdacunha@deloitte.lu



Tax – Real Estate
Yves Knel
Partner
+352 451 452 260
yknel@deloitte.lu

Key Contacts



Tax – Private Equity
Raphaël Louage
Partner
+352 451 452 898
rlouage@deloitte.lu



Tax – Private Equity
Dany Teillant
Partner
+352 451 452 246
dteillant@deloitte.lu



Tax – Real Estate
Valérie Tollet
Partner
+352 451 452 252
vtollet@deloitte.lu