



Real Estate Series Webinar

Soaring over tax and regulatory structuring
in key pan-European jurisdictions

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28 October 2020

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Agenda

- Introduction
- Overview of manager's requests
- Legal and tax analysis
- Conclusion



Overview of manager's requests

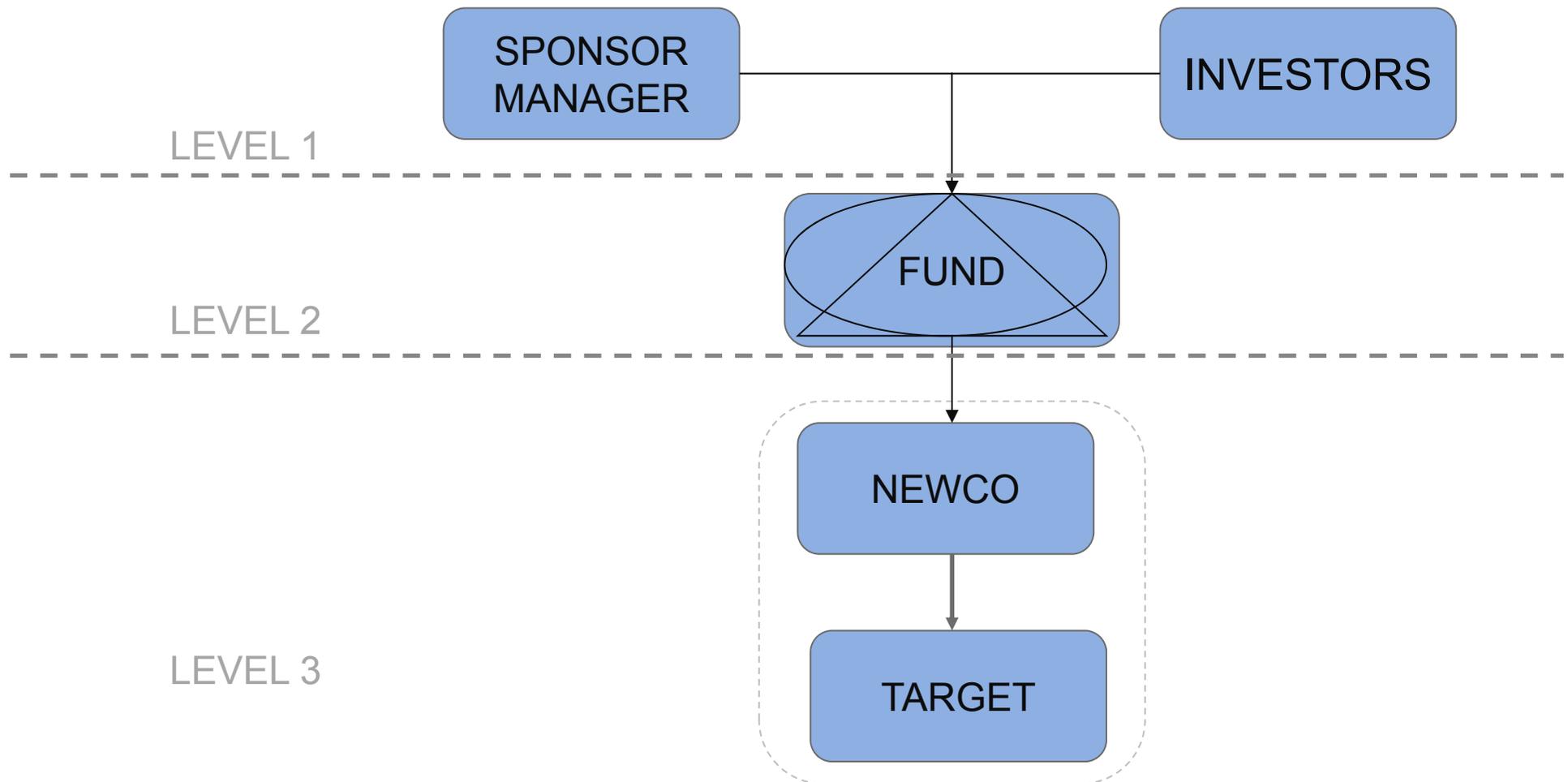
Manager's requests – setting the scene

- Investment strategy and policy of the Fund
 - the Fund will make investments in real estate, as well as real estate related assets
 - the Fund will invest in commercial and office real estate investment projects or properties
 - closed-ended fund
 - core and core+ strategy
- Targeted investors
 - mostly European, and potentially Middle East institutional investors and professional investors including family offices and high net-worth individuals
- Investments' geographic focus
 - Benelux, Spain, Germany, Italy and France
- Minimum targeted Fund size
 - EUR 1bn AUM
- Governance
 - TBD



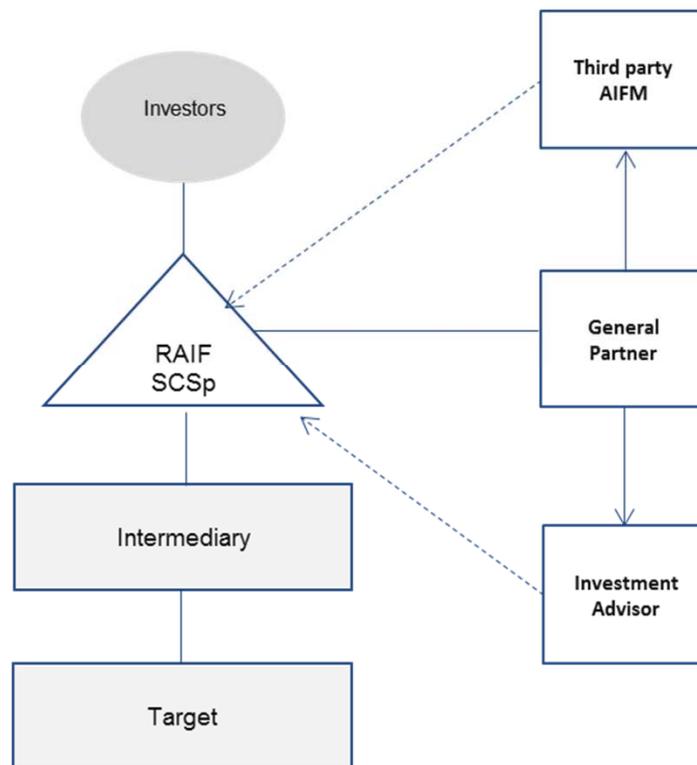
Legal and tax analysis

Legal and Tax analysis – 3 levels to be considered



Preliminary analysis – potential structure

RAIF



The key features for a RAIF would be:

- Option of multiple compartments;
- Investment in any asset class and any investment policy or strategy applicable;
- Risk-spreading requirements are aligned with those applicable to SIFs except if the RAIF elects to invest in qualifying risk capital investments only in which case there is no risk-spreading requirement;
- Well-informed investors only;
- No prior authorisation and ongoing prudential supervision by the CSSF;
- Appointment of an authorised AIFM;
- Variable or fixed share capital structure;
- Flexible financing, distribution and exit options;
- Standard minimum accounting and publication requirements subject to corporate form chosen;
- Independent audit requirement;
- Depositary requirement.

Preliminary analysis – Structuring questions

- Investors' restrictions
 - German investors (GICs and pension funds)

- Specific investment restrictions
 - Legal investment restrictions (if SIF: 30% diversification)
 - Contractual investment restrictions

- Decision-making process
 - GP vs AIFM
 - Delegation vs. advisory model

- Governance of the Fund
 - Investors voting rights / reserved matters
 - IAC

Preliminary analysis – Timeline



Preliminary analysis – Tax Considerations

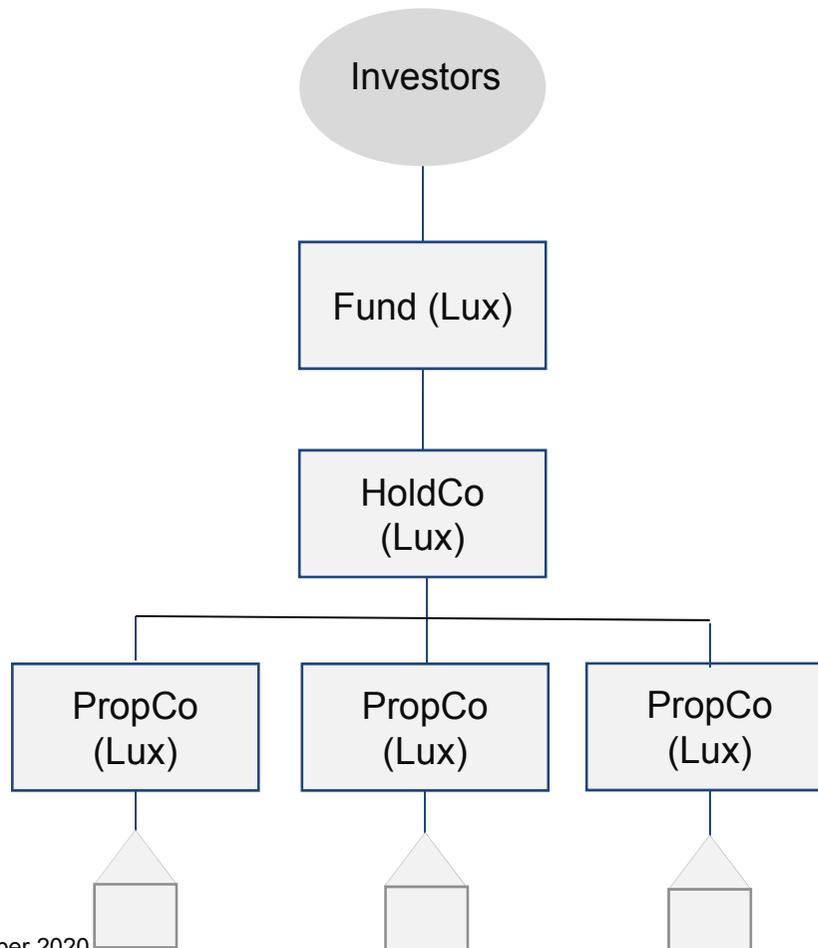
Level 3



- Local or Lux PropCo ?
- Single PropCo or HoldCo/PropCo ?
- Direct Investment ?
- VAT

Preliminary analysis – Tax Considerations – Germany

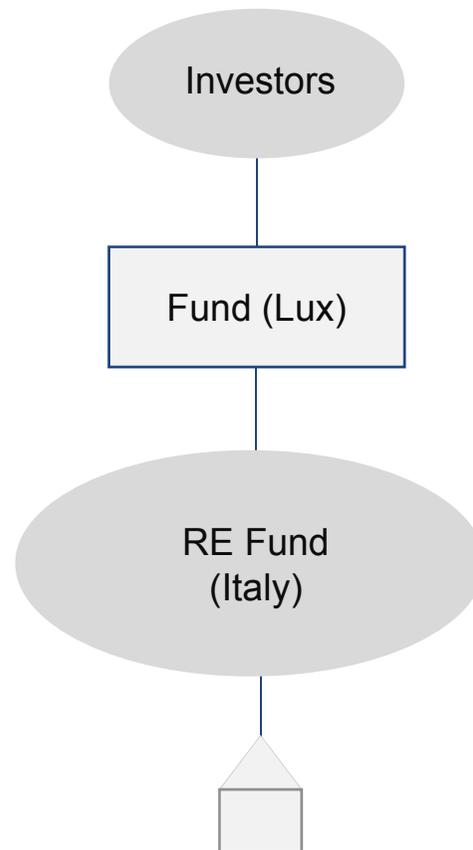
Level 3



- Examples:
 - Germany: HoldCo/PropCo
 - Exemption of capital gains realised by HoldCo on PropCo shares

Preliminary analysis – Tax Considerations - Italy

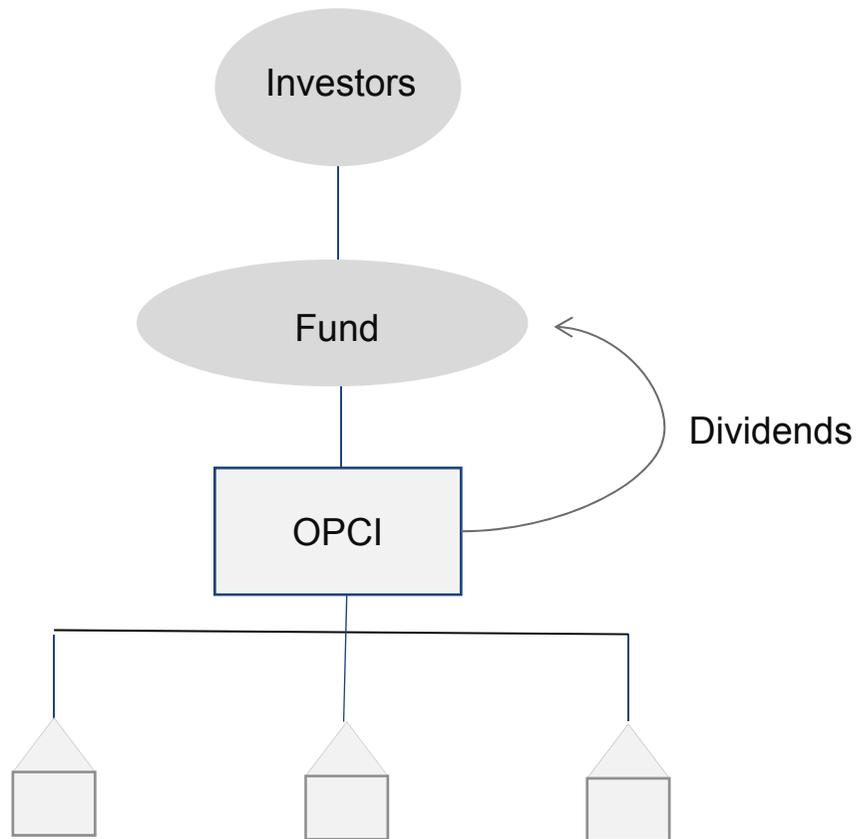
Level 3



- Examples:
 - Italy: RE Fund (Exempt)
 - Exempt Italian RE income

Preliminary analysis – Tax Considerations - France

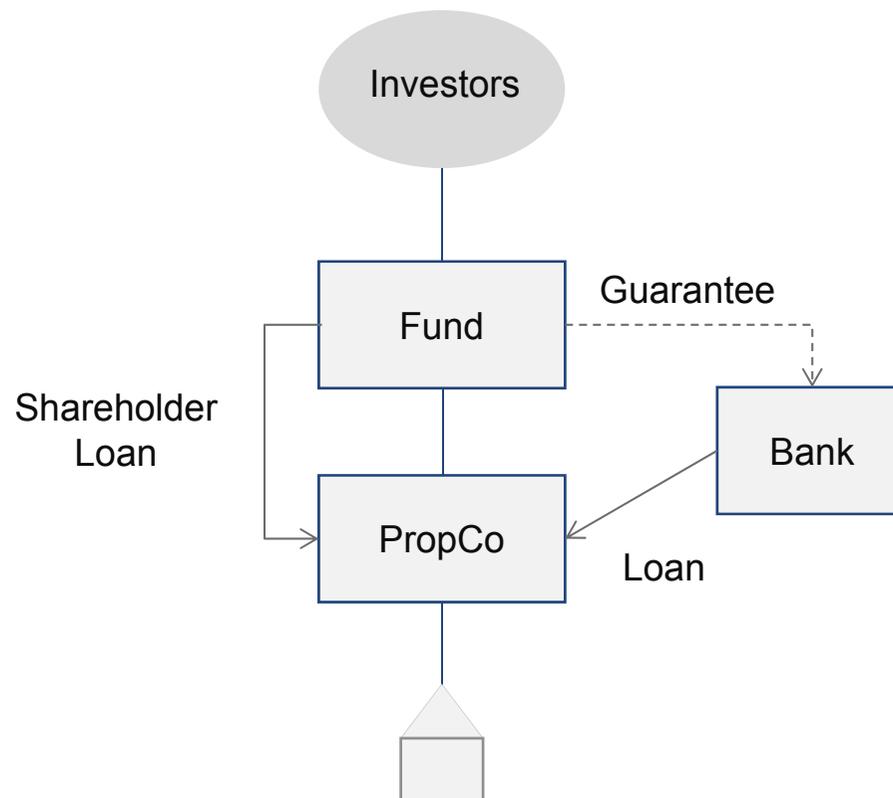
Level 3



- Examples:
 - France: OPCF + Regulated Lux Fund
 - Reduced WHT rate

Preliminary analysis – Tax Considerations - Financing

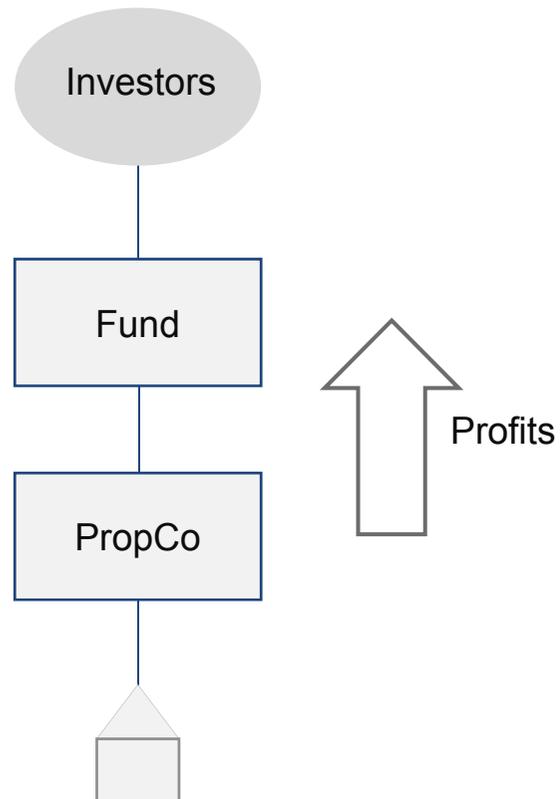
Level 3



- Debt or Equity investment ?
- Depreciation and Cash Trap issues
- Transfer pricing issues (debt / equity ratio / interest rate / guarantee fee) ?

Preliminary analysis – Tax Considerations - Distributions

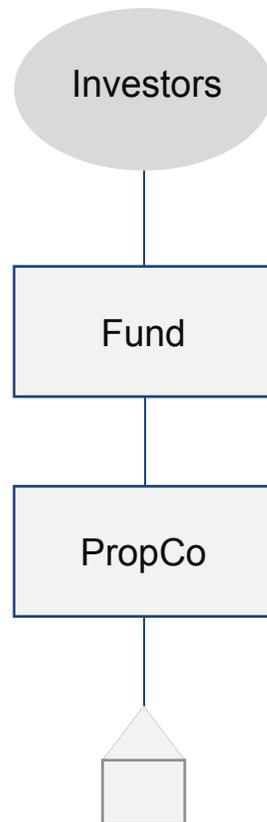
Level 3



- Profit repatriation ?
 - Dividends: 15% WHT
 - Interest: 0% WHT
 - Liquidation: 0% WHT
- Net Rental Income vs Capital gains(s)

Preliminary analysis – Tax Considerations – Fund level

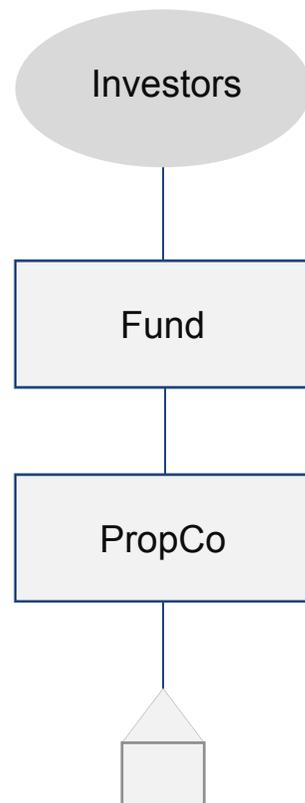
Level 2



- Exempt vs Taxable ?
- Opaque (blocker) vs transparent (flow-through) ?
- Services: management/advisor (AIFM)
 - transfer pricing issues
- Carried interest structure

Preliminary analysis – Tax Considerations - Investors

Level 1



- Taxable or Exempt ?
- US check-the-box elections
- ATAD 2 issues ?
 - hybrid mismatches ?
 - reverse hybrids ?
- DAC 6 issues ?

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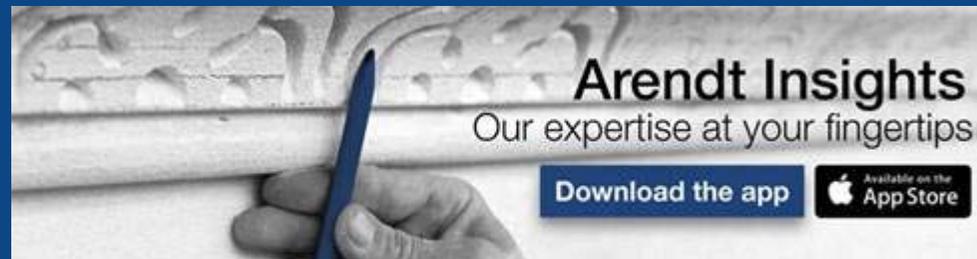
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